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Executive Orders

EXECUTIVE ORDER MJF 02-15

Bond Allocation
Louisiana Local
Government Environmental Facilities and
Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter "the 2002 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2002 Ceiling to finance the acquisition and rehabilitation of a twenty-six (26) unit multi-family apartment complex located at 618 Independence Street, New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$850,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Independence Street Apartments

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#001

EXECUTIVE ORDER MJF 02-16

Bond Allocation
Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter "the 2002 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 2002 Ceiling to provide mortgage financing with respect to a 54 unit multi-family housing complex located in the parish of East Baton Rouge, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$2,600,000	Louisiana Housing Finance Agency	Restoration Baton Rouge 2002, LLC

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#002

EXECUTIVE ORDER MJF 02-17

Bond AllocationCThe Finance Authority of New Orleans

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter *the 2002 Ceiling*);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, The Finance Authority of New Orleans has requested an allocation from the 2002 Ceiling to be used in connection with a program providing mortgage financing for qualified purchasers of single-family, owner-occupied residences in the city of New Orleans, parish of Orleans,

state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$20,000,000	The Finance Authority of New Orleans	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#003

EXECUTIVE ORDER MJF 02-18

Bond AllocationC Calcasieu Parish Public Trust Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of

allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter **Athe 2002 Ceiling@**);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Calcasieu Parish Public Trust Authority has requested an allocation from the 2002 Ceiling to be used in connection with a program to provide financing for the expansion of and purchase of additional equipment for Groth Equipment Corporation of Louisiana which manufactures valves and instrumentation for local refineries and petrochemical, power, pulp, and paper industries, located in the parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$1,000,000	Calcasieu Parish Public Trust Authority	Groth Equipment Corporation of Louisiana

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state

of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#004

EXECUTIVE ORDER MJF 02-19

Bond Allocation Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter "the 2002 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 2002 Ceiling to be used in connection with a program providing mortgage financing for low and moderate income persons for single family, owner-occupied residences throughout the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$61,086,250	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#005

EXECUTIVE ORDER MJF 02-20

Bond Allocation C Shreveport Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter the 2002 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Shreveport Home Mortgage Authority has requested an allocation from the 2002 Ceiling to provide mortgage financing for persons with low and moderate income for single family, owner-occupied residences throughout the parishes of Caddo and Bossier, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$5,000,000	Shreveport Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling@ submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#014

EXECUTIVE ORDER MJF 02-21

Bond Allocation C Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter the 2002 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 2002 Ceiling to be used in connection with a program to provide mortgage financing with respect to a 76 unit multi-family housing complex located in the southwest corner of Pierre Avenue and Walnut Street, city of Shreveport, parish of Caddo, state of

Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2002 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$3,500,000	Louisiana Housing Finance Agency	Galilee City Limited Partnership, LLC

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before November 18, 2002.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of August, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#015

EXECUTIVE ORDER MJF 02-22

Rules and Policies on Leave for Unclassified Service Military Leave

WHEREAS, Executive Order No. MJF 98-23, issued on May 21, 1998, as amended by Executive Order No. MJF 2001-58, issued on November 29, 2001, provides for rules and policies on annual, compensatory, sick, special, military, and other leave for certain unclassified state officers and

employees (hereafter "Rules and Policies on Leave for Unclassified Service"); and

WHEREAS, due to the events of September 11, 2002, it is necessary to update certain provisions of the Rules and Policies on Leave for Unclassified Service related to military leave;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Subsection 2(G) of Executive Order No. MJF 98-23, issued on May 21, 1998, as amended by Executive Order No. MJF 2001-58, issued on November 29, 2001, is amended as follows:

G. "Leave without pay" and/or "leave of absence without pay" means a period of leave or time off from work granted by the appointing authority, or the appointing authority's designee, for which the officer or employee receives no pay, but may be eligible to receive a pay differential pursuant to Section 17 of this Order.

SECTION 2: Subsection 5(C) of Executive Order No. MJF 98-23, as amended by Executive Order No. MJF 2001-58, is amended as follows:

C. No unclassified officer or employee shall be credited with annual or sick leave:

1. For any overtime hour(s);
2. For any hour(s) of leave without pay, except as set forth in Section 17 of this Order;
3. For any hour(s) of on-call status outside the officer or employee's regular duty hour(s);
4. For any hour(s) of travel or other activity outside the officer or employee's regular duty hours; or
5. For any hour(s) of a holiday or other non-work day which occurs while on leave without pay, except as set forth in Section 17 of this Order.

SECTION 3: Section 17 of Executive Order No. MJF 98-23, as amended by Executive Order No. MJF 2001-58, is amended as follows:

Military Leave

A. An unclassified officer or employee serving in a position that earns annual and sick leave who is a member of a reserve component of the armed forces of the United States and called to duty for military purposes, or who is a member of a National Guard unit called to active duty as a result of a non-local or non-state emergency, shall be granted a leave of absence from a state position without loss of pay or deduction of leave for a period not to exceed fifteen (15) working days per calendar year (hereafter "military leave with pay"). In addition, an appointing authority may grant annual leave, compensatory leave, leave without pay or any combination thereof, for a period in excess of fifteen (15) working days per calendar year, in accordance with this Order and/or as required by state and/or federal law.

B.1. Retroactive to September 11, 2001, an unclassified officer or employee serving in a position that earns annual and sick leave ordered

and/or called to active military duty on or after September 11, 2001, (hereafter "9-11 military service") who is on leave without pay after exhausting military leave with pay, and whose military base pay is less than the officer or employee's state base pay, shall be paid the difference between their military base pay and their state base pay (hereafter "pay differential"). Payment of the pay differential shall be made at the same frequency and in the same manner as the officer or employee's state pay.

2. The unclassified officer or employee on 9-11 military service shall provide their appointing authority all documentation necessary and appropriate for correct calculation of the pay differential.

3. While on leave without pay, an unclassified officer or employee on 9-11 military service shall accrue annual and sick leave in accordance with the general schedule set forth in Subsection 5(B) of this Order as if the officer or employee were in full time state service. Leave earned during 9-11 military service shall be promptly credited at the cessation of 9-11 military service.

4. If 9-11 military service extends beyond one (1) calendar year, the unclassified officer or employee shall be entitled to receive military leave with pay for fifteen (15) days per calendar year for each year of 9-11 military service. The pay differential shall be suspended while the officer or employee is on military leave with pay and until the officer or employee returns to leave without pay.

5. During 9-11 military service, an unclassified officer or employee on annual leave is not eligible to receive the pay differential. Nonetheless, if an unclassified officer or employee on 9-11 military service used annual leave during 9-11 military service between September 11, 2001, and the effective date of this Order, the unclassified officer or employee shall have the option to receive leave without pay retroactive to the beginning of their 9-11 military service minus any days while on military leave with pay, have annual leave used during 9-11 military service re-credited, and receive the 9-11 military service pay differential retroactive to the beginning of their 9-11 military service minus any days while on military leave with pay.

6. The provisions of this Subsection shall not apply to unclassified officers or employees on inactive military duty for training, annual field training, and/or weekend drills.

C. An unclassified officer or employee who is a member of a reserve component of the armed forces of the United States or a National Guard unit, ordered and/or called to duty for military purposes, shall give prompt notice of the duty to their appointing authority, or the appointing authority's designee.

SECTION 4: All other sections, subsections, and paragraphs of Executive Order No. MJF 98-23, as amended by Executive Order No. MJF 2001-58, shall remain in full force and effect.

SECTION 5: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of September, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#036

EXECUTIVE ORDER MJF 02-23

Uniform Payroll Insurance Commission

WHEREAS, Executive Order No. MJF 2001-40, signed on September 17, 2001, established the Uniform Payroll Insurance Commission (hereafter "Commission") within the executive branch, Office of the Governor;

WHEREAS, Executive Order No. MJF 2002-1, signed on January 30th, amended Executive Order No. MJF 2001-40, in order to extend the deadline for submission of its written report to the governor;

WHEREAS, the Commission has fulfilled the bulk of its duties and additional and ongoing work by the Commission is required to assist the state to offer a properly administered payroll deduction plan providing high quality insurance-related products at a reasonable rate; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-40, as amended by Executive Order No. MJF 2002-1, in order to continue the Commission and modify its duties;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Subsection 2 of Executive Order No. MJF 2001-40, signed on September 17, 2001, is amended to provide as follows:

The duties and functions of the Commission shall include, but are not limited to, the following:

A. Examining all reasonable options to improve the efficiency and cost effective administration of all voluntary insurance products (exclusive of those offered by the Office of Group Benefits) offered under the uniform payroll system operated by the Division of Administration, including program structure, oversight, offerings, method of selection, internal administration, etc.; and

B. Establishing criteria for vendor and employee participation, as well as definable and measurable quality control measures.

SECTION 2: Subsection 3 of Executive Order No. MJF 2001-40, signed on September 17, 2001, as amended by Executive Order No. MJF 2002-1, signed on January 30, 2002, is amended to provide as follows:

The Commission shall perform the duties and functions described in subsection 2 and provide interim reports to the Governor as determined by the chair.

SECTION 3: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2001-40, as amended by Executive Order No. MJF 2002-1, shall remain in full force and effect.

SECTION 4: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of September, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#037

EXECUTIVE ORDER MJF 02-24

Office of Group Benefits Study Commission

WHEREAS, the state of Louisiana currently offers health benefits to employees, retirees, and dependents of state agencies, school boards, and various political subdivisions through the Office of Group Benefits (hereafter "OGB");

WHEREAS, in excess of two hundred twenty thousand (220,000) state, school board, and political subdivision employees, retirees, and their dependents currently receive health benefits through OGB;

WHEREAS, OGB is projecting a FY 2003 operating budget in excess of \$800 million;

WHEREAS, health care and pharmaceutical costs are increasing at double-digit rates across the nation and are projected to do so into the future;

WHEREAS, the current options and rate structures offered by OGB face rising costs similar to other plans across the nation;

WHEREAS, providers have expressed dissatisfaction with the claims processing, reimbursement rates and reimbursement methodology;

WHEREAS, the well-being of the state government workforce is vital to the proper functioning of state government and to the people of the state;

WHEREAS, it is essential to the well-being of the state government workforce that its employees have access to the best possible health care services at the lowest possible rates;

WHEREAS, Executive Order No. MJF 2000-46, issued on November 16, 2000, created the State Employees

Group Benefits Program Study Commission (hereafter "SEGBPSC")

WHEREAS, recommendations of the SEGBPSC were implemented by Act No. 1178 of the 2001 Regular Session of the Louisiana Legislature;

WHEREAS, SEGBPSC also recommended that a subsequent study commission be established to address issues not included within its recommendations, such as long range planning; and

WHEREAS, the interests of the state of Louisiana and its employees can best be served by the creation of a new commission to study the best way to provide high quality health benefits to state employees at the lowest price possible;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Office of Group Benefits Study Commission (hereafter "Commission") is established within the executive department, Office of the Governor.

SECTION 2: The duties and functions of the Commission shall include, but are not limited to, the following:

A. Conducting an Internal Operational Assessment to review, analyze, and benchmark health options and rate structures offered through OGB;

B. Identifying and evaluating best practice options to improve the efficiency and cost effective administration of OGB, including internal administration, staffing models, outsourcing, and privatization;

C. Identifying and evaluating best practice options for the most cost effective and efficient delivery of pharmaceutical benefits, including proactive pharmacy benefits management;

D. Analyzing the future impact of providing health benefits on the state budget; the requirements of the Federal Health Insurance Portability and Accountability Act of 1996; and the proposed Patients Bill of Rights legislation;

E. Examining and evaluating the existing provider reimbursement methodology and reimbursement rates, timeliness of payments, and making recommendations for improvements;

F. Exploring competitive medical management systems, including recommending and/or piloting innovative health benefits options;

G. Exploring a Medicare buy-in for those employees and retirees not covered; and

H. Conducting public hearings to receive input from Group Benefits plan members, stakeholders, and others who are affected by OGB.

SECTION 3: The Commission shall submit a comprehensive written report to the governor by December 5, 2002, which addresses the issues set forth in Section 2 of this Order.

SECTION 4: With the exception of the members of the Louisiana Legislature, all members of the Commission shall be appointed by the governor. With the exception of the legislative and executive members, all members shall serve at the governor's pleasure. The Commission shall be composed of eighteen (18) members selected as follows:

A. The commissioner of administration, or the commissioner's designee;

B. Three (3) members of the Senate, appointed by the president of the Senate, including the chair of the Senate Committee on Finance;

C. Three (3) members of the House of Representatives, appointed by the speaker of the House of Representatives, including the chair of the House Committee on Appropriations.

D. The secretary of the Department of Health and Hospitals, or the secretary's designee;

E. The superintendent of the Department of Education, or the superintendent's designee;

F. The CEO of Louisiana State University Health Science Center, or the CEO's designee;

G. The chair of the Office of Group Benefits Planning and Policy Board, or the chair's designee;

H. One (1) member who is employed by the Department of Insurance with expertise in health insurance matters;

I. One (1) member of the Louisiana Hospital Association;

J. One (1) member who represents active state employees;

K. One (1) member who represents retired state employees;

L. One (1) member who is employed by an institution of higher education with expertise in the field of health care services;

M. One (1) member who represents the business insurance industry; and

N. One (1) member with expertise in the delivery of medical care services.

SECTION 5: The governor shall appoint the chair of the Commission. All other officers, if any, shall be elected by the membership of the Commission.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Support staff, facilities, and resources for the Commission shall be provided by the Office of Group Benefits.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of September, 2002

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0209#38

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Certification of Commercial Applicators (LAC 7:XXIII.125)

In accordance with the Administrative Procedure Act R.S. 49:953 and R.S. 3:3202.A, the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing the spraying of mosquitoes in an effort to suppress and control the outbreak of the West Nile virus.

Since its introduction into the United States in 1999, the West Nile virus has spread to most, if not all, states east of the Mississippi river, and into Louisiana. The West Nile virus can cause serious illness or death in humans. The only known method of transmission is through the bite of mosquitoes. So far this year, the Center for Disease Control and Department of Health and Hospitals have confirmed at least 85 cases of West Nile virus in humans in Louisiana and five deaths.

Louisiana is experiencing an unprecedented outbreak of West Nile virus. The outbreak is so severe that the Governor has declared a state of emergency. The primary means of suppressing this outbreak is to control the mosquito population by spraying pesticides intended for that purpose. Therefore, the Commissioner of Agriculture and Forestry has determined that the West Nile virus constitutes an imminent peril to the health and safety of Louisiana citizens.

The Louisiana Department of Agriculture and Forestry (LDAF) will exempt, for the next 30 days, a certified aerial commercial applicator from having to obtain a certification as a mosquito control applicator if the requirements for an exemption, as stated herein, are met.

This Emergency Rule will become effective upon signature (August 26, 2002) and will remain in effect for 30 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§125. Certification of Commercial Applicators

A. - B.2.h.vi. ...

(a.) Any aerial commercial applicator previously certified by the Department shall be exempt from also being certified as a mosquito control applicator, as required by subsection B.2.h.i. if the following requirements are met.

(i.) A written request for an exemption is filed with the Department's Director of the Division of Pesticides and Environmental Programs. The written request may be filed by facsimile to (225) 925-3760.

(ii.) The applicator's written request shall state his intent to operate under this exemption. The request shall also include the applicator's name, address, certification

category, and pesticide certification number. The written request shall include the name and license number of the owner-operator for which the applicator is working for. The written request shall be signed and dated by the applicator.

(b.) The department shall review any written request received and notify the applicator as soon as possible if the request is approved or denied. The applicator, upon receipt of written approval from the department, shall then be eligible to spray for mosquitoes under the supervision of the department without the necessity of being certified as a mosquito control applicator. This exemption, however, shall expire upon the date that this regulation ceases to have any force or effect.

(c.) No certified aerial commercial applicator who has received an exemption under this subsection shall make any application for mosquito control unless such application is made in accordance with a written contract between the owner-operator the applicator is working for and a governmental agency or political subdivision of the state of Louisiana. Prior to any application being made in accordance with any such contract the owner-operator must file the contract with the Department. The contract may be filed by facsimile sent to (225) 925-3760.

B.2.i. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, 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 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:

Bob Odom
Commissioner

0209#010

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Fixed Wing Aircraft Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B., and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with plant bugs.

The application of insecticides in accordance with the current concentration regulations has not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow

the plant bugs the opportunity to destroy the cotton during the growing season. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule will become effective upon the signature of the Commissioner (August 21, 2002) and shall remain in effect through September 19, 2002.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§145. Fixed Wing Aircraft Standards for Commercial Aerial Pesticide Applications

A. – A.5.b.xxxvi. ...

c. malathion insecticide applied with the following conditions to control plant bugs in cotton.

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by state or federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicators responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed 5 feet above the cotton canopy.

However, in fields that are not near sensitive areas, if infield obstructions make the 5-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure

to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time,

date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require 5 minutes or more to generate the map for a 3-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 16 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to sunrise on August 21, 2002 and shall not be made after sunset on September 19, 2002.

xxxvi. Applications of ULV malathion shall be restricted to 7 day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000), LR 28:

Bob Odom
Commissioner

0209#011

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Certification for Substance Abuse Counselors

Fees (LAC 46:LXXX.501)

The Louisiana State Board of Certification for Substance Abuse Counselors has adopted the following Emergency Rule effective August 24, 2002, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and the Substance Abuse Counselor Certification Act, R.S. 37:3371 et seq., and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first. The proposed Emergency Rule

has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Due to imminent peril to the health, safety and welfare of the public, the Members of the Louisiana State Board of Certification for Substance Abuse Counselors has adopted this Emergency Rule amendment to increase fees to alleviate financial problems immediately facing the Board. Such increases in fees do not exceed the "cap" established in the Substance Abuse Counselor Certification Act, R.S. 37:3377.A, as enacted by the State Legislature. As a professional regulatory board, the Louisiana State Board of Certification for Substance Abuse Counselors must function totally on self-generated fees and is financially autonomous from the State.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXX. Substance Abuse Counselors

Chapter 5. Fees and Board Documents

§501. Fees

A. - C. ...

D. In accordance with Section LSA R.S. 37:3377.A of the Substance Abuse Counselor Certification Act the fee schedule shall be as follows.

Application	\$100
Initial Certification	200
Certification by Reciprocity from Another State	200
Renewal of Certification	200
Late Fee for Renewal of Certification	150
Reinstatement of Certification	200
Appeal/Evaluation of Exam Decision	150
Registration as Counselor in Training or Prevention Specialist in Training	75
Renewal of Registration as Counselor in Training or Prevention Specialist in Training	75
Registration as Registered Counselor Supervisor	150
Renewal of Registration as Registered Counselor Supervisor	150
Registration as Approved Training Institution	200
Renewal of Registration as Approved Training Institution	200
Registration as Approved Education Provider	200
Renewal of Registration as Approved Education Provider	200
Registration for Approved Educational Provider Single Course	60
Registration as Approved Institution of Higher Education	200
Renewal of Registration as Approved Inst. of Higher Educ.	200
Late Fee for Renewal of Any Registration	150

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 28:

Ellen R. Calvert
Chairman

0209#016

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Licensed Marriage and Family Therapists
(LAC 46:LX.Chapters 27 - 47)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B) et seq., the Louisiana Board of Examiners is declaring an Emergency Rule relative to the licensing of marriage and family therapists, and the "grandfathering" licensure of certain marriage and family therapists who meet certain statutory requirements.

The effective date of this Emergency Rule is August 5, 2002, and it shall be in effect for 120 days or until the final rule takes effect through the normal rulemaking process, whichever occurs first.

The Emergency Rule is necessary to allow for the licensing "grandfathering" process to be completed within deadlines specified by the Legislature. Implementation of this process, mandated by Act 1195 of 2001, was necessarily delayed pending clarification by the Attorney General of certain apparent statutory conflicts.

This Emergency Rule is further necessary to begin the licensing of marriage and family therapists, in accordance with the expressed legislative intent to regulate such practice.

There will be no adverse fiscal impact on the state as a result of this rule

Inasmuch as the LPC Board operates solely on self-generated funds. Individuals wishing to be licensed through the "grandfathering" process will enjoy an economic advantage by not having to comply with more stringent licensing qualifications.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LX. Licensed Professional Counselors
Subpart 2. Professional Standards for Licensed
Marriage and Family Therapists**

Chapter 27. General Provisions

§2701. Statement of Purpose

A. "The legislature does further hereby find and declare that marriage and family therapy in this state is a professional practice which affects the public safety and welfare of the citizens of the state and requires appropriate regulation and control in the public interest. It is a purpose of this Chapter to establish a regulatory structure and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy" (R.S. 37:1102).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2703. Statutory Authority of the Marriage and Family Therapy Advisory Committee

A. The Marriage and Family Therapy Advisory Committee was created and empowered by Act 1195 of the 2001 Legislature to provide for the regulation of the use of the title "Licensed Marriage and Family Therapist" (R.S. 37:1101-1122). Therefore, the Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, establishes the Marriage and Family Therapy Advisory Committee as directed by the 2001 Legislature. The Marriage and Family Therapy Advisory Committee shall develop the rules and regulations herein pursuant to the authority granted to, and imposed upon said advisory committee under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13: §1101-1122. The Health and Welfare Committees in the House and Senate shall jointly approve these rules and regulations. The board shall promulgate these rules and regulations [R.S. 37:1104.B.(2)(b)]. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as licensed marriage and family therapists upon recommendation of the Marriage and Family Therapy Advisory Committee. [R.S. 37:1105(G)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2705. Description of Organization

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of three members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists except for the first three members who shall be members of the American Association for Marriage and Family Therapy. These first three advisory committee members shall be eligible for licensure as licensed marriage and family therapists under Title 37, Chapter 13 as soon as these rules and regulations are approved. Two advisory committee members shall be members of the board.

B. The governor shall make appointments to the board and the advisory committee from a list of qualified candidates submitted by the board of the Louisiana Association of Marriage and Family Therapy, hereinafter referred to as LAMFT. LAMFT shall specify which candidates are to be appointed to the board. Each appointment by the governor shall be submitted to the Senate for confirmation.

C. Board member terms shall be for four years; non-board member terms shall be for three years. No advisory committee member shall serve more than two full consecutive terms.

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LAMFT Board as prescribed in §1104 of R.S. 37:1101-1122.

E. No advisory committee member shall be liable in any civil action for any act performed in good faith in the execution of his or her duties under Chapter 13 of Title 37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2707. Reimbursement

A. Each advisory committee member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board or advisory committee business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2709. Notification of Change

A. Licensed marriage and family therapists/interns and LMFT-approved supervisors/supervisors-in-training shall notify the Licensed Professional Counselors Board of Examiners in writing of any and all changes in name, address, and phone number within 30 days. Failure to do so will result in a fine as set forth in §901.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties

§2901. Officers

A. The advisory committee shall elect from its membership a chair, vice chair, and secretary. The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and these rules. The chair is authorized by the board to make day-to-day decisions regarding advisory committee activities to facilitate its responsiveness and effectiveness. The vice chair shall perform the duties of the chair if the chair is absent or disabled. If the office of chair becomes vacant, the vice chair shall serve as chair until a successor is named. The secretary shall keep the minutes of the advisory committee meetings and send them to the advisory committee members and the clerical secretary before the next meeting of the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2903. Meetings

A. The advisory committee shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the advisory committee. Advisory committee meetings shall be held at least semiannually. The advisory committee shall hold meetings regularly, with prior approval from the board, to conduct its business. Reasonable notice of all advisory committee meetings will be given by posting the meeting place, time, and agenda 24 hours before the meeting on the door and in two places in the building housing the office of the board and on the door of the location of the meeting, if different from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2905. Quorum

A. Two members of the advisory committee shall constitute a quorum at any meeting or hearing for the transaction of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2907. Procedures

A. The advisory committee shall develop such rules and regulations as it deems necessary to effect the provisions of Act 1195 (Chapter 13, R.S. 37:1101-1122). The board shall promulgate these rules and regulations. The House and Senate Health and Welfare Committees shall jointly approve these rules and regulations.

B. The advisory committee shall review applications for examination, licensure, and renewal for recommended approval to the board. The advisory committee shall recommend to the board to withhold, deny, revoke, or suspend any license of an applicant, or impose any other sanctions on licensed marriage and family therapists.

C. The advisory committee shall submit an annual report to the board containing its professional actions during the year. The advisory committee hereby adopts Robert's Rules of Order Revised as the basis of its parliamentary decisions except as otherwise provided by advisory committee rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2909. Code of Ethics

A. The advisory committee has adopted the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT), including any revisions or additions deemed appropriate or necessary by the board as recommended by advisory committee. AAMFT has given its written permission to use its code of ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2911. Records

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of approved supervisors and supervisors-in-training and a register of licensed marriage and family therapists shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

Chapter 31. License of Title for Marriage and Family Therapy

§3101. License of Title for Marriage and Family Therapy

A. As stated in R.S. 37:1122(A), no person, unless licensed as a marriage and family therapist, shall advertise as

being a "licensed marriage and family therapist" or hold themselves out to the public or make use of any title, words, letters or abbreviations that may reasonably be confused with the title "Licensed Marriage and Family Therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3103. Practice of Marriage and Family Therapy by Other Licensed Mental Health Professionals

A. Nothing in this subpart shall be construed as prohibiting qualified members of other professional groups including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. No such person, however, shall use the title, or use any words or abbreviations that may reasonably be confused with the title, "Licensed Marriage and Family Therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3105. Definitions for Licensed Marriage and Family Therapists

Advisory Committee—the Marriage and Family Therapy Advisory Committee.

Assessment—

1. the evaluation through the use of systems oriented methods and processes of:
 - a. individual;
 - b. couple;
 - c. family; and
 - d. larger systems.
2. for the purpose of
 - a. developing treatment plans;
 - b. monitoring psychotherapeutic processes;
 - c. measuring psychotherapeutic progress; and
 - d. measuring psychotherapeutic outcomes.
3. Such evaluation may include the use of
 - a. informal; or
 - b. formal instruments.
4. for which the licensed marriage and family therapist has received:
 - a. appropriate training; and
 - b. supervision in:
 - i. individual settings; and
 - ii. group settings.

Board—the Louisiana Licensed Professional Counselors Board of Examiners.

Marriage and Family Therapy—the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of:

1. individuals;
2. couples; and
3. families.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 33. Requirements for Licensure

§3301. General Provisions

A. The board upon recommendation of the Marriage and Family Therapy Advisory Committee shall license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the advisory committee. Such licensure shall be signed by the chairman and vice chairman of the board and the chairman and vice chairman of the advisory committee. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3303. Definitions

Allied Mental Health Discipline—includes, but may not be limited to, mental health counseling, social work, psychology, psychiatric nursing, and psychiatry.

Applicant—any individual seeking licensure who has submitted an official application and paid the application fee.

Appropriate Graduate Degree—a master's or doctoral degree from a college or university accredited by the Southern Association of Colleges and Schools (SACS), or a comparable accrediting body. If a discipline requires a specific terminal degree, that degree will be considered the appropriate degree.

Client Contact Hour—a 50-minute period a therapist spends working face-to-face with an individual, couple, family, or group.

Direct Client Contact—face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as direct client contact.

Licensed Marriage and Family Therapist Intern or MFT Intern—a person who has earned a qualifying graduate degree and is receiving MFT approved postgraduate supervision.

Recognized Educational Institution—a postgraduate training institute or any regionally accredited educational institution that grants a master's or doctoral degree that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee or, until June 30, 2003, the standards for marriage and family counseling or therapy established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3305. General Licensing Requirements

- A. To become licensed, an applicant must:
1. be of good moral character;
 2. never have engaged in any practice or conduct that would be grounds for refusing to issue a license;
 3. be qualified for licensure pursuant to the requirements provided for in this Subpart;
 4. file a completed application form, accompanied by the required fee;
 5. ask that official transcripts be sent directly from the education institution for the applicants' files;
 6. provide a statement of practice (refer to the Appendix) for review and approval by the advisory committee. Applicants also licensed by one or more other allied mental health professions may integrate the requirements specific to licensed marriage and family therapy as determined by the advisory committee into any similar informed consent document required for licensure by such allied mental health professions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3307. Specific Licensing Requirements for

Applications Made on or before January 1, 2003

A. On applications postmarked on or before January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this Section.

1. Specific requirements for §3307 may be met in one of four ways:
 - a. an appropriate graduate degree and two years of supervised clinical experience:
 - i. the applicant must have an appropriate graduate degree in:
 - (a) marriage and family therapy; or
 - (b) an allied mental health discipline; and
 - ii. have completed, after the receipt of a qualifying degree:
 - (a) at least two years of supervised clinical experience; and
 - (b) a minimum of 1000 hours of direct client contact:
 - (i) in the practice of marriage and family therapy; or
 - (ii) as part of the scope of practice of an allied mental health discipline;
 - b. persons with appropriate graduate degrees who do not meet the two years of supervised clinical experience may apply to become MFT interns:
 - i. the minimum of 1000 hours of direct client contact may be met by:
 - (a) supervised clinical experience obtained in the degree program beyond that required for the degree; and
 - (b) supervision recommended for approval by the advisory committee;
 - ii. applicants may not become licensed without two years of post-degree clinical experience;

c. current clinical membership in the Association for Marriage and Family Therapy (AAMFT):

i. verification of such membership sent directly from AAMFT will be accepted as a presumption of having met both the educational and clinical experience required;

d. a valid license from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana as specified in Subparagraph A.1.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3309. Specific Licensing Requirements for Applications Made after January 1, 2003

A. For applications postmarked after January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this Section.

1. Summary of Specific Requirements for §3309

a. Academic Requirements:

i. a master's or doctoral degree from a marriage and family therapy program that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee in a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by COAMFTE as determined by the advisory committee; or

ii. until June 30, 2003, a master's or doctoral degree in mental health counseling with a specialization in marriage and family counseling that substantially meets the standards established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision from a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by CACREP as determined by the ad hoc committee on licensure and supervision; or

iii. an appropriate graduate degree in an allied mental health field from a regionally accredited educational institution with graduate level coursework equivalent to:

(a). a master's degree in marriage and family therapy that meets the standards established by COAMFTE as determined by the advisory committee and specified in §3311 Academic Requirements for Equivalency; or

(b). until June 30, 2003, the standards for marriage and family counseling or therapy established by CACREP as determined by the ad hoc committee on licensure and supervision and specified in §3311. Academic Requirements for Equivalency;

b. Supervision Requirements:

i. applicants must complete a minimum of two years of supervised work experience in marriage and family therapy as specified in §3315 Supervision Requirements after receipt of a qualifying degree;

c. Examination Requirements:

i. applicants must pass the national examination in marriage and family therapy as specified in §3313 Examination Requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3311. Academic Requirements for Equivalency after January 1, 2003

A. General

1. An applicant must have completed a minimum of 48 semester hours or its equivalent of graduate coursework.

2. One course is defined as three semester credits, four quarter credits, or 45 didactic contact hours (i.e., lecture hours).

3. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

4. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

5. Only coursework taken for credit and receiving a passing grade will be accepted.

6. Coursework taken outside of a program of studies for which a degree was granted must receive an "A," "B," or "pass."

7. In a postgraduate training program, a minimum of 45 contact hours will be considered equivalent to a three-hour semester credit course.

8. An applicant who wishes to make up academic deficiencies may propose a plan of additional coursework to the advisory committee.

9. An applicant who has completed a master's degree program in marriage and family therapy or counseling that was accredited by the Council on the Accreditation of Counseling and Related Educational Programs (CACREP) and has a minimum of six graduate courses in Marriage and Family Therapy, will be determined by the advisory committee and the board to have met the equivalency of standards established by the Commission on Accreditation for Marriage and Family Education (COAMFTE).

B. Specific equivalency requirements that meet the standards for marriage and family therapy established by COAMFTE as determined by the advisory committee.

1. Academic Course Content. An applicant with a graduate degree in an allied mental health field must have coursework in each of the following areas (one course equals three semester hours):

a. Theoretical Knowledge of Marriage and Family Therapy—a minimum of two courses.

i. Courses in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns. Students will be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. Materials covered will provide a comprehensive survey and substantive understanding of the major models of marriage, couple, and family therapy.

b. Clinical Knowledge of Marriage and Family Therapy—a minimum of four courses.

i. Courses in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy—a minimum of two courses.

i. Courses in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues; One course must be in psychopathology.

d. Individual, Couple, and Family Development—a minimum of one course.

i. Courses in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics—a minimum of one course.

i. Courses in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure, and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual, couple, and family therapy. A generic course in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d) the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research—a minimum of one course.

i. Courses in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Additional Learning—a minimum of one course.

i. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Supervised Clinical Practicum—five hundred supervised direct client contact hours with 100 hours of face-

to-face supervision. At least 250 of these hours will be with couples or families present in the therapy room.

a. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

b. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

C. Until June 30, 2003, specific equivalency requirements that meet the standards for marriage and family counseling/therapy established by CACREP as determined by the committee on mental health counseling licensure/supervision for the advisory committee.

1. Academic Course Content. To fulfill the CACREP requirements of the academic component for eligibility, the applicant must have completed a minimum of four courses from the following areas.

a. Foundations of Marital, Couple, and Family Counseling/Therapy:

i. the history of marital, couple, and family counseling/therapy including philosophical and etiological premises that define the practice of marital, couple, and family counseling/therapy;

ii. the structure and operations of professional organizations, preparation standards, and credentialing bodies pertaining to the practice of marital, couple, and family counseling/therapy (e.g., the International Association of Marriage and Family Counselors);

iii. the ethical and legal considerations specifically related to the practice of marital, couple, and family counseling/therapy (e.g., the *ACA* and *IAMFC Code of Ethics*);

iv. the implications of professional issues unique to marital, couple, and family counseling/therapy including recognition, reimbursement, and right to practice;

v. the role of marital, couple, and family counselors/therapists in a variety of practice settings and in relation to other helping professionals; and

vi. the role of racial, ethnic, and cultural heritage, nationality, socioeconomic status, family structure, age, gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in marital, couple, and family counseling/therapy.

b. Contextual Dimensions of Marital, Couple, and Family Counseling/Therapy:

i. marital, couple, and family life cycle dynamics, healthy family structures, and development in a multicultural society, family of origin and intergenerational influences, cultural heritage, socioeconomic status, and belief systems;

ii human sexuality issues and their impact on family and couple functioning, and strategies for their resolution; and

iii. societal trends and treatment issues related to working with diverse family systems (e.g., families in transition, dual-career couples, and blended families).

c. Knowledge and Skill Requirements for Marital, Couple, and Family Counselor/Therapists:

i. family systems theories and other relevant theories and their application in working with couples and families, and other systems (e.g., legal, legislative, school and community systems) and with individuals;

ii. interviewing, assessment, and case management skills for working with individuals, couples, families, and other systems; and implementing appropriate skill in systemic interventions;

iii. preventive approaches for working with individuals, couples, families, and other systems such as pre-marital counseling, parenting skills training, and relationship enhancement;

iv. specific problems that impede family functioning, including issues related to socioeconomic disadvantage, discrimination and bias, addictive behaviors, person abuse, and interventions for their resolution; and

v. research and technology applications in marital, couple, and family counseling/therapy.

2. The supervised CACREP clinical practice must include:

a. a 100-hour practicum, of which forty hours must be direct client contact; and

b. a 600-hour internship, of which 240 hours must be direct hour contact. The requirements for this internship are:

i. it must occur in a counseling setting, under the clinical supervision of a site supervisor;

ii. direct service clock hours are defined as work with couples, families, and individuals from a systems perspective;

iii. at least half of the direct service clock hours must be with couples and family units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3313. Examination Requirements

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee.

B. Applicants for licensure are not eligible for examination until approved by the advisory committee.

C. Passing scores on the examination are determined by the testing agency.

D. Any person who fails an examination shall not be admitted to a subsequent examination for at least six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3315. Supervision Requirements

A. General Provisions

1. Applicants who apply before January 1, 2003, who meet the degree requirements but do not meet the experience requirements and applicants who apply after January 1, 2003, who meet the degree requirements must successfully complete two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this Section.

B. Definitions for Supervision

Co-Therapy Supervision—supervision outside the session on cases in which the supervisor is a co-therapist.

Consultation—a voluntary relationship between professionals of relative equal expertise or status wherein the

person being consulted offers his/her best advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority over the person asking for assistance, no legal or professional accountability for either the services performed or the welfare of the client. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

Group Supervision—face to face supervision of more than two MFT interns and no more than six MFT interns per group regardless of the number of supervisors. Group supervision provides the opportunity for the supervisees to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

Individual Supervision—face-to-face supervision of one or two individuals by one supervisor.

LMFT-Approved Supervisor—an individual who has met requirements and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing. The supervisor is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

LMFT-Approved Supervisor Candidate—an individual under the supervision of an LMFT-approved supervisor for the purpose of qualifying as an LMFT-approved supervisor.

Live Supervision—supervision (individual and/or group) in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts live supervision the time is counted as individual supervision for up to two interns providing therapy in the room with the client(s) and for up to two interns observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two MFT interns involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six interns involved.

MFT Intern—a individual who has been recommended by the LMFT Advisory Committee and approved by the board for supervision by an LMFT-approved supervisor.

Qualified Supervision—supervision of the clinical services of an MFT intern by a supervisor recommended by the MFT Advisory Committee and approved by the board.

Supervision—the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of licensed marriage and family therapy. In addition to monitoring the MFT intern's supervised interaction with clients, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation.

Supervised Experience Plan—a written agreement on a form required by the advisory committee that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

Supervision-in-Training Plan—a written agreement on a form required by the advisory committee that establishes the

supervisory framework for supervision of a licensed marriage and family therapist-in-training to become an LMFT approved supervisor.

Work Experience—includes direct client contact and activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision.

C. Supervision Requirements for Licensure

1. After receipt of a qualifying degree an applicant must complete a minimum of two years of work experience in marriage and family therapy that includes at least 3000 hours of clinical services to individuals, couples, or families.

a. At least 2000 of these hours must be direct clinical services.

b. The remaining 1000 hours may come from related experiences that may include but are not limited to workshops, public relations, writing case notes, consulting with referral sources, etc.

c. Supervisees should apply systemic theories and treatment with all clients and make every effort to work with as many couples and families as possible.

2. The required supervision must include at least 200 hours of supervision, of which at least one hundred hours must be individual supervision. Up to 100 hours of supervision received during a graduate program that can be documented as systemic may be counted toward the two hundred hours.

3. The work experience shall be obtained over not less than two years.

4. After the supervision plan is submitted and fees are paid, the board upon recommendation of the advisory committee will approve supervisors before supervision begins. Supervision hours may not be counted until after approval. Approval of a supervised experience plan does not mean that the supervised experience when completed will be automatically approved.

5. To meet the requirements of the supervised clinical experience, the supervisee must:

a. meet face-to-face with the supervisor for sustained and intense learning customarily for one hour per ten hours of client contact, with once every other week, the minimum; and three times a week ordinarily the maximum;

b. file with the advisory committee a supervised experience plan as defined in §3315.B Definitions for Supervision.

6. It is recommended that the supervisory experience include sequentially at least two supervisors with diverse family therapy orientations, such as, but not limited to, narrative, MRI, Bowenian, structural, strategic, behavioral, or solution focused.

7. The following are not acceptable as approved supervision:

a. peer supervision (supervision by a person of equivalent, rather than superior, qualifications, status and experience);

b. supervision by current or former family members (such as parents, spouse, former spouse, siblings, children, cousins, present or former in-laws, aunts, uncles, grandparents, grandchildren, step-children), anyone sharing the same household, employees, or any other person where

the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship. For purposes of this rule, a supervisor shall not be considered an employee of the supervisee if the only compensation received by the supervisor consists of payment for actual supervisory hours;

c. administrative supervision (administrative supervision by an institutional director or executive, for example, conducted to evaluate job performance or for case management rather than the clinical supervision of the quality of therapy given to clients);

d. a primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar;

e. consultation, staff development, or orientation to a field program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

D. Qualifications of a Supervisor and Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than ten supervisees and/or supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a thirty-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience requirements:

(a). has at least two years experience as a licensed as a Marriage and Family therapist.

iii. Supervision of supervision:

(a). before January 1, 2004, an applicant must have thirty-six hours of supervision of supervision for marriage and family therapy from a person considered to be a qualified supervisor by the advisory committee;

(b). before January 1, 2004, applicants with a degree in marriage and family therapy or its equivalent as determined by the advisory committee who meet the requirements in (a), (b,) and (c) in this clause will not be required to obtain the thirty six hours of supervision of supervision;

(c). after January 1, 2004, supervision of supervision must be taken from an LMFT-approved supervisor;

b. Designation as an AAMFT approved Supervisor qualifies a person to become an LMFT approved supervisor.

Documentation must be submitted and recommended by the advisory committee for board approval.

4. LMFT approved supervisor-in-training

a. A person who wishes to become an LMFT approved supervisor in-training must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation that he or has at least two years experience as a Licensed Marriage and Family Therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Subparagraph D.3.b or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the supervisor-in-training must submit an application to become an LMFT approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 35. Renewal of License

§3501. General Provisions

A. Licenses shall be renewed every two years in January. The licensee shall submit an application form and payment of the renewal fee. Renewals must be postmarked no later than December 31. Upon approval by the advisory committee, the board shall issue a document renewing the license for two years.

B. A license not renewed shall lapse December 31. To renew a lapsed license, the licensee must pay all fees in arrears and provide documentation of the continuing education requirements. A lapsed license not renewed within two years will expire and the individual must re-apply under the current rules for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1106, 1116-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3503. Continuing Education Requirements

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every 2 years.

2. One continuing education unit (CEU) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period. Renewal periods run from January 1 to December 31.

5. The licensee is responsible for keeping a personal record of his/her continuing education hours until official notification of renewal is received. Do not forward documentation of continuing education hours to the board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be requested by letter to submit documentation as specified in §3503.B of their continuing education hours.

7. Licensees will be asked in the renewal application to note any changes in areas of expertise. The advisory committee, at its discretion, may require the licensee to present satisfactory documentation supporting these changes.

8. A licensee must accrue three clock hours of training in ethics that specifically addresses ethics for licensed marriage and family therapy as defined in Subparagraph C.3.e. every renewal period. A generic ethics class will not be acceptable.

9. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEU's submitted, however, twenty hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

10. The approval of and requirements for continuing education are specified in Subsection C.

B. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentations;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. Continuing education requirements are meant to ensure personal and professional development throughout an individual's career.

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. All continuing education hours may be obtained through Subparagraph a. or twenty of the 40 hours may be obtained through Subparagraph b.

a. Direct participation in a structured educational format as a learner in continuing education workshops and

presentations or in graduate coursework (either for credit or audit):

i. the advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3;

ii. licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework;

iii. continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Subclause a. will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3503.C and given by a qualified presenter.

(c). A qualified presenter is considered to be someone at the master's level or above trained in marriage and family therapy or another appropriate mental health field.

(d). One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 47).

b. Optional ways to obtain continuing education (twenty hours maximum):

i. licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (ten hours maximum) in an area as described in Paragraph C.3 in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course; or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in Paragraph C.3. Articles must be published in a professional refereed journal.

ii. presentations at workshops, seminars, symposia, and meetings in an area of marriage and family

therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas:

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns;

b. Clinical Knowledge of Marriage and Family Therapy:

i. continuing education in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy:

i. continuing education in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development:

i. continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy:

i. continuing education in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d). the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy:

i. continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy:

i. continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 37. Reciprocity and Provisional Licenses

§3701. States, Territories, and Commonwealths

A. Upon application accompanied by the required fee:

1. the board through the advisory committee may issue a license to any person who has a valid license as a marriage and family therapist from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana;

2. the board through the advisory committee may develop rules to provide for the issuance of provisional licenses for licensed marriage and family therapists for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 39. Disciplinary Proceedings

§3901. Causes for Administrative Action

A. The board, upon recommendation of the advisory committee, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist on a finding that the person has violated R.S. 37:1101-1122, any of the rules, regulations, and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. Additionally, the board, upon recommendation of the advisory committee, may withhold, deny, revoke, or suspend any license issued or applied for, or otherwise discipline or an LMFT as provided by other applicable state or federal laws, including but not limited to the following violations:

1. failure to pay court-ordered child support (R.S. 37:2952 et seq.);

2. failure to pay certain student loans (R.S. 37:2951 et seq.);

3. failure to report suspected cases of child abuse or neglect (R.S. 14:403 et seq.);

4. failure to report suspected cases of abuse of the elderly (R.S. 14:403.2 et seq.);

5. failure to maintain patient records as required by law (R.S. 40:1299.96 et seq.).

B. Sometimes hereinafter, where the context allows, a licensed marriage and family therapist or applicant for licensure may be referred to as a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§3903. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Louisiana Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict evidentiary rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3905. Initiation of Complaints

A. Any person or the advisory committee on their own initiative may initiate complaints.

B. All complaints shall be addressed "confidential" to the Ad Hoc Committee for Disciplinary Affairs (hereafter referred to as the disciplinary committee) and shall be sent to the board office. A member of the advisory committee shall be appointed to serve on the Ad Hoc Committee for Disciplinary Affairs, by the chair of the board, and shall be empowered to act on behalf of the advisory committee. He/she shall concur or disagree with the recommendation of the disciplinary committee chair and such concurrence or disagreement shall constitute the official recommendation of the advisory committee as to the complaint in question. The disciplinary committee shall convey the complaint to the board. By a simple majority, the disciplinary committee shall vote to investigate or deny the charge. If a denial, the chair of the chair of the disciplinary committee shall prepare the letters of denial. If an agreement to investigate, the board shall request that the disciplinary committee notify the person that allegations have been made that he/she may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he/she must respond in writing to the disciplinary committee

within a specified time period. A response is to be made to the disciplinary committee at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his/her response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required. The disciplinary committee shall inform the board of its decision.

C. Pursuant to its authority to regulate this industry, the board, upon recommendation of the advisory committee through its disciplinary committee, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations or ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. The subpoenaed confidential or privileged records of a patient or client are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3907. Informal Disposition of Complaints

A. The board, upon recommendation of the disciplinary committee and the person accused of a violation may settle some complaints informally without a formal hearing. The disciplinary committee shall guide cases through any informal process, and, failing resolution, may recommend a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For less serious complaints, the disciplinary committee may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The disciplinary committee may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The board must consider the nature of the alleged offense and the evidence before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3909. Formal Hearing

A. The board upon recommendation of the disciplinary committee has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license upon recommendation of the advisory committee to practice as a licensed marriage and family therapist or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
2. the right of notice;
3. a statement of what accusations have been made;
4. the right to present evidence and to cross-examine; and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The disciplinary committee receives a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The disciplinary counsel investigates the complaint to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than disciplinary committee members may communicate with any party to a proceeding or his/her representative concerning any issue of fact or law involved in this stage of the proceeding.

b. A decision to initiate a formal complaint or charge may be made by the board if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the Ad Hoc Disciplinary Affairs Committee's correspondence concerning the complaint;
- iii. the person's response to the Ad Hoc Disciplinary Affairs Committee letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A notice of hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee thereto, or prior final decisions and/or consent orders involving the person.

4. The board chair or disciplinary counsel sets a time and place for a hearing.

5.a. At least 20 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person *in absentia*, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence that may be introduced. The charges may be amended at any time up to 10 days prior to the date set for the hearing.

c. If the disciplinary committee is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

7.a. The board chair or disciplinary counsel issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for any other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena *dues tecum*, which requires that a person produce books, records, correspondence, or other materials over which he/she has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument and to reach a decision. Any board member, who, because of bias, interest, or other conflict is unable to participate in the hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. The board shall be assisted and advised at the hearing by its general counsel, who shall not participate in any other manner in the investigation or prosecution of charges. The general counsel shall also attend the board's deliberations, advise the board at such deliberations, and assist the board with development and drafting of its findings.

b. The disciplinary counsel who conducted the investigation represents the board and presents evidence that disciplinary action should be taken against the person. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, an affirmation may be substituted.

9. The board chair presides as chair of the board over all hearings for licensed marriage and family therapists. The customary order of proceedings at a hearing is as follows:

a. the disciplinary counsel makes an opening statement of what he/she intends to prove, and what action, he/she wants the board to take;

b. the person, or his/her attorney, makes an opening statement, explaining why he/she believes that the charges against him/her are not legally founded;

c. the disciplinary counsel presents the case against the person;

d. the person, or his/her attorney, cross-examines;

e. the person presents evidence;

f. the disciplinary counsel cross-examines;

g. the rebuts the person's evidence.

10. Both parties make closing statements. The disciplinary counsel makes the initial closing statement and any final statement.

11. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally, and become part of the record of the proceeding.

12.a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

b. all documents and/or other materials accepted as evidence at the hearing;

i. statements of matters officially noticed;

c. notices required by the statutes or rules; including notice of hearing;

d. affidavits of service or receipts for mailing or process or other evidence of service;

e. stipulations, settlement agreements or consent orders, if any;

i. records of matters agreed upon at a prehearing conference;

ii. orders of the board and its final decision;

iii. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

iv. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

f. the record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

13.a. The decision of the board shall be reached according to the following process:

i. determine the facts at issue on the basis of the evidence submitted at the hearing;

ii. determine whether the facts in the case support the charges brought against the person;

iii. determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee.

b. Deliberation

i. The board will deliberate in closed session.

ii. The advisory committee shall make its recommendation as to each charge presented.

iii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).

iv. After considering and voting on each charge, the hearing panel will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist or applicant for licensure.

v. The board by affirmative majority vote may vote to recommend that the board withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37, Chapter 13, or otherwise discipline a licensed marriage and family therapist or applicant. The board, upon reaching a decision, will inform the board of their decision.

c. Sanctions against the person who is party to the proceedings are based upon findings of fact and conclusions of law determined as a result of the hearing. The party is notified by certified mail of the final decision of the board.

14. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it and the advisory committee deem proper if such orders and judgments are not consent orders or compromise judgments.

15. The board may reconsider a matter that it has decided.

a. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the board reconsider the decision.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

i. the board's decision is clearly contrary to the law and evidence;

ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which

the party could not have discovered with due diligence before or during the hearing;

iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

iv. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3911. Consent Order

A. The Board may issue an order involving some type of disciplinary action with the consent of the person. A consent order requires a simple majority of the board. This consent order is not the result of the board's deliberation, but rather the board's acceptance upon recommendation of disciplinary committee to the board of an agreement reached between the board's agents and the person. The board issues the consent order to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1106, 1116-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3913. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3915. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified, restricted delivery mail.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action by the board that could eventually lead to the withholding, denial, revocation or suspension of his/her license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3917. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the 19th Judicial District Court for the parish of East Baton Rouge, provided that such petition for judicial review is filed within 30 days after receipt of the notice of the decision of the

board. If judicial review is granted, the board's decision remains enforceable in the interim unless the 19th Judicial District Court orders a stay. Pursuant to the applicable Section of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3919. Further Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3921. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed marriage and family therapist for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may reinstate or revoke the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3923. Declaratory Statements

A. The board upon recommendation of the advisory committee may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the rules, regulations, and ethical standards promulgated by the board for the advisory committee.

1. A request for declaratory statement is made in the form of a petition to the Licensed Marriage and Family Therapists Advisory Committee. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or ethical standards by its potential application to him in which he is uncertain of its effect.

2. The advisory committee shall consider the petition within a reasonable period of time, taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3925. Injunction

A. The board upon recommendation of the LMFT Advisory Committee may, through the Louisiana attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by R.S. 37, Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by R.S. 37, Chapter 13, the court, may enter a decree enjoining the defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, a court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all other penalties and other remedies provided in R.S. 37, Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 41. Informed Consent

§4101. General Provisions

A. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures before the formal therapeutic process begins. Information provided to clients by licensed marriage and family therapists about the treatment process shall include, but is not limited to, the therapist's statement of practice as outlined in the Appendix. The therapist should be sure that the client understands all information provided before asking for consent to treatment. The content of informed consent may vary depending on the client and treatment plan; however, informed consent generally necessitates that the client:

1. has the capacity to consent;
2. has been adequately informed of the ethical and practical components of treatment processes and procedures, including but not limited to, the use of audio or video taping, or the use of observers, supervisors, or therapy teams during therapy;
3. has been adequately informed of potential therapy outcomes, including the risks and benefits of treatment, not only for recognized approaches, but also for approaches for which generally recognized standards do not yet exist;
4. has freely and without undue influence expressed consent; and
5. has provided consent that is appropriately documented.

B. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 43. Privileged Communications

§4301. Privileged Communication with Clients

A. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality in the therapeutic process and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures. Licensed marriage and family therapists also shall be aware of specific ethical requirements concerning licensed marriage and family therapy as specified in the Code of Ethics (Chapter 47) and in §4301.C.

B. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, court order, or where mandated or specifically permitted by law, or reasonably necessary to protect the client or other parties from a clear and imminent threat of serious physical harm. Verbal authorization may be sufficient in emergency situations or where otherwise permitted by law.

C. Licensed marriage and family therapists shall be cognizant of and adhere to any confidentiality requirement that may differ from requirements in other licenses they hold. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client within the system of which they are working as well as the confidences of the system.

1. When providing couple, family, or group treatment, a licensed marriage and family therapist shall not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver.

2. In the context of couple, family, or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 45. Exemptions

§4501. Exemptions

A. No person shall be required to obtain a license as a licensed marriage and family therapist. The practice of marriage and family therapy is not prohibited by Act 1195. As stated in R.S. 37:1122(A), the only prohibition is the use of the title "Licensed Marriage and Family Therapist."

B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use

the title "Licensed Marriage and Family Therapist" (R.S. 37:1121).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 47. Code of Ethics

§4701. General

A. The Marriage and Family Therapy Advisory Committee strives to honor the public trust in licensed marriage and family therapists by setting the standards for ethical practice as described in this code of ethics.

B. Licensed marriage and family therapists have an obligation to be familiar with this code of ethics and its application to their professional services. They also must be familiar with any applicable ethical codes that govern other licensure that they hold or are responsible for through certification or membership in professional organizations. Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical conduct.

C. These ethical standards govern the practice of licensed marriage and family therapy and professional functioning of the advisory committee and shall be enforced by the board through the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4703. Resolving Ethical Issues

A. The absence of an explicit reference to a specific behavior or situation in the Code does not mean that the behavior is ethical or unethical. The standards are not exhaustive. Licensed marriage and family therapists shall consult with other licensed marriage and family therapists who are knowledgeable about ethics, with colleagues, with LMFT-approved supervisors, or with appropriate authorities when:

1. they are uncertain if the ethics of a particular situation or course of action is in violation of this code; or

2. provisions in the ethical codes that regulate licensure that they may hold in other professions differs from provisions in this code; or

3. provisions in the ethical codes that regulate their membership or certification in a professional organization differs from provisions in this code.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4705. Responsibility to Clients

A. Licensed marriage and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

B. Licensed marriage and family therapists provide professional assistance to persons without discrimination on the basis of race, age, ethnicity, socioeconomic status, disability, gender, health status, religion, national origin, or sexual orientation.

C. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures early in the therapeutic relationship, usually before the therapeutic relationship begins, and use language that is reasonably understandable to clients. The licensed marriage and family therapist will provide all clients with a statement of practice subject to review and approval by the advisory committee (See Appendix). The content of informed consent may vary depending upon the therapist's areas of expertise, the client(s) and treatment plan.

1. Informed consent generally necessitates that the client:

- a. has the capacity to consent;
- b. has been adequately informed of significant information concerning treatment processes and procedures;
 - i. has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist;
- c. has freely and without undue influence signed a statement of practice.

2. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

D. Licensed marriage and family therapists are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Such relationships include, but are not limited to, business or close personal relationships with a client or the client's immediate family. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

E. Sexual intimacy with clients is prohibited.

F. Sexual intimacy with former clients is likely to be harmful and is therefore prohibited for two years following the termination of therapy or last professional contact. In an effort to avoid exploiting the trust and dependency of clients, licensed marriage and family therapists should not engage in sexual intimacy with former clients after the two years following termination or last professional contact. Should therapists engage in sexual intimacy with former clients following two years after termination or last professional contact, the burden shifts to the therapist to demonstrate that there has been no exploitation or injury to the former client or to the client's immediate family.

G. Licensed marriage and family therapists comply with applicable laws regarding the reporting of alleged unethical conduct.

H. Licensed marriage and family therapists do not use their professional relationships with clients to further their own interests.

I. Licensed marriage and family therapists respect the rights of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise the clients that they have the responsibility to make decisions regarding relationships such as cohabitation, marriage, divorce, separation, reconciliation, custody, and visitation.

J. Licensed marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

K. Licensed marriage and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

L. Licensed marriage and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

M. Licensed marriage and family therapists obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation.

N. Licensed marriage and family therapists, upon agreeing to provide services to a person or entity at the request of a third party, clarify, to the extent feasible and at the outset of the service, the nature of the relationship with each party and the limits of confidentiality.

AUTHORITY NOTE: In accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated in accordance with the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4707. Confidentiality

A. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client.

B. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

C. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, or where mandated or permitted by law. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law, specifically in instances of danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect. When providing couple, family or group treatment, the therapist does not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver. In the context of couple, family or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

D. Licensed marriage and family therapists use client and/or clinical materials in teaching, writing, consulting, research, and public presentations only if a written waiver has been obtained in accordance with this Section, or when appropriate steps have been taken to protect client identity and confidentiality.

E. Licensed marriage and family therapists store, safeguard, and dispose of client records in ways that maintain confidentiality and in accord with applicable laws and professional standards.

F. Subsequent to the therapist moving from the area, closing the practice, or upon the death of the therapist, a marriage and family therapist arranges for the storage, transfer, or disposal of client records in ways that maintain confidentiality and safeguard the welfare of clients.

G. Licensed marriage and family therapists, when consulting with colleagues or referral sources, do not share confidential information that could reasonably lead to the identification of a client, research participant, supervisee, or other person with whom they have a confidential relationship unless they have obtained the prior written consent obtained in accordance with this Section of the client, research participant, supervisee, or other person with whom they have a confidential relationship. Information may be shared only to the extent necessary to achieve the purposes of the consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4709. Professional Competence and Integrity

A. Licensed marriage and family therapists maintain high standards of professional competence and integrity.

B. Licensed marriage and family therapists pursue knowledge of new developments and maintain competence in licensed marriage and family therapy through education, training, or supervised experience.

C. Licensed marriage and family therapists maintain adequate knowledge of and adhere to applicable laws, ethics, and professional standards.

D. Licensed marriage and family therapists seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

E. Licensed marriage and family therapists do not provide services that create a conflict of interest that may impair work performance or clinical judgment.

F. Licensed marriage and family therapists, as presenters, teachers, supervisors, consultants and researchers, are dedicated to high standards of scholarship, present accurate information, and disclose potential conflicts of interest.

G. Licensed marriage and family therapists maintain accurate and adequate clinical and financial records.

H. While developing new skills in specialty areas, licensed marriage and family therapists take steps to ensure the competence of their work and to protect clients from possible harm. Licensed marriage and family therapists practice in specialty areas new to them only after appropriate education, training, or supervised experience.

I. Licensed marriage and family therapists do not engage in sexual or other forms of harassment of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

J. Licensed marriage and family therapists do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

K. Licensed marriage and family therapists do not give to or receive from clients:

1. gifts of substantial value; or
2. gifts that impair the integrity or efficacy of the therapeutic relationship.

L. Licensed marriage and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies.

M. Licensed marriage and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

N. Licensed marriage and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

O. To avoid a conflict of interests, licensed marriage and family therapists who treat minors or adults involved in custody or visitation actions may not also perform forensic evaluations for custody, residence, or visitation of the minor. The marriage and family therapist who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the marriage and family therapist's perspective as a treating marriage and family therapist, so long as the marriage and family therapist does not violate confidentiality.

P. Licensed marriage and family therapists are in violation of this Code and subject to revocation or suspension of licensure or other appropriate action by the board through the advisory committee if they:

1. are convicted of any felony;
2. are convicted of a misdemeanor related to their qualifications or functions;
3. engage in conduct which could lead to conviction of a felony, or a misdemeanor related to their qualifications or functions;
4. are expelled from or disciplined by professional organizations;
5. have their licenses or certificates suspended or revoked or are otherwise disciplined by other regulatory bodies;
6. continue to practice licensed marriage and family therapy while no longer competent to do so because they are impaired by physical or mental causes or the abuse of alcohol or other substances; or
7. fail to cooperate with the board through the advisory committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4711. Responsibility to Students and Supervisees

A. Licensed marriage and family therapists do not exploit the trust and dependency of students and supervisees.

B. Licensed marriage and family therapists are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Licensed marriage and family therapists, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, licensed marriage and family therapists take appropriate precautions.

C. Licensed marriage and family therapists do not provide therapy to current students or supervisees.

D. Licensed marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. Should a supervisor engage in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

E. Licensed marriage and family therapists do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

F. Licensed marriage and family therapists take reasonable measures to ensure that services provided by supervisees are professional.

G. Licensed marriage and family therapists avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the therapists' objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the therapist has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

H. Licensed marriage and family therapists do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4713. Responsibility to Research Participants

A. Investigators respect the dignity and protect the welfare of research participants, and are aware of applicable laws and regulations and professional standards governing the conduct of research.

B. Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of research participants.

C. Investigators requesting participant involvement in research inform participants of the aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, or have impairments which limit understanding and/or communication, or when participants are children.

D. Investigators respect each participant's freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the

research team are in positions of authority or influence over participants. Licensed marriage and family therapists, therefore, make every effort to avoid multiple relationships with research participants that could impair professional judgment or increase the risk of exploitation.

E. Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4715. Responsibility to the Profession

A. Licensed marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

B. Licensed marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations. If the mandates of an organization with which a licensed marriage and family therapist is affiliated, through employment, contract or otherwise, conflict with the LMFT code of ethics licensed marriage and family therapists make known to the organization their commitment to the LMFT code of ethics and attempt to resolve the conflict in a way that allows the fullest adherence to the code of ethics.

C. Licensed marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

D. Licensed marriage and family therapists do not accept or require authorship credit for a publication based on research from a student's program, unless the therapist made a substantial contribution beyond being a faculty advisor or research committee member. Coauthorship on a student thesis, dissertation, or project should be determined in accordance with principles of fairness and justice.

E. Licensed marriage and family therapists who are the authors of books or other materials that are published or distributed do not plagiarize or fail to cite persons to whom credit for original ideas or work is due.

F. Licensed marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

G. Licensed marriage and family therapists participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

H. Licensed marriage and family therapists are concerned with developing laws and regulations pertaining to licensed marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

I. Licensed marriage and family therapists encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 28:

§4717. Financial Arrangements

A. Licensed marriage and family therapists make financial arrangements with clients, third-party payors, and supervisees that are reasonably understandable and conform to accepted professional practices.

B. Licensed marriage and family therapists do not offer or accept kickbacks, rebates, bonuses, or other remuneration for referrals; fee-for-service arrangements are not prohibited.

C. Prior to entering into the therapeutic or supervisory relationship, licensed marriage and family therapists clearly disclose and explain to clients and supervisees:

1. all financial arrangements and fees related to professional services, including charges for canceled or missed appointments;

2. the use of collection agencies or legal measures for nonpayment; and

3. the procedure for obtaining payment from the client, to the extent allowed by law, if payment is denied by the third-party payor;

4. once services have begun, therapists provide reasonable notice of any changes in fees or other charges.

D. Licensed marriage and family therapists give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When such action is taken, therapists will not disclose clinical information.

E. Licensed marriage and family therapists represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

F. Licensed marriage and family therapists ordinarily refrain from accepting goods and services from clients in return for services rendered. Bartering for professional services may be conducted only if:

1. the supervisee or client requests it;
2. the relationship is not exploitative;
3. the professional relationship is not distorted; and
4. a clear written contract is established.

G. Licensed marriage and family therapists may not withhold records under their immediate control that are requested and needed for a client's treatment solely because payment has not been received for past services, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4719. Advertising

A. Licensed marriage and family therapists engage in appropriate informational activities, including those that enable the public, referral sources, or others to choose professional services on an informed basis.

B. Licensed marriage and family therapists accurately represent their competencies, education, training, and experience relevant to their practice of licensed marriage and family therapy.

C. Licensed marriage and family therapists ensure that advertisements and publications in any media (such as directories, announcements, business cards, newspapers, radio, television, Internet, and facsimiles) convey information that is necessary for the public to make an appropriate selection of professional services. Information could include:

1. office information, such as name, address, telephone number, credit card acceptability, fees, languages spoken, and office hours;

2. qualifying clinical degree (see §10[F]);

3. other earned degrees (see §10[F]) and state or provincial licensures and/or certifications;

4. licensed marriage and family therapist status; and

5. description of practice.

D. Licensed marriage and family therapists do not use names that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.

E. Licensed marriage and family therapists do not use any professional identification (such as a business card, office sign, letterhead, Internet, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

F. In representing their educational qualifications, licensed marriage and family therapists list and claim as evidence only those earned degrees:

1. from institutions accredited by regional accreditation sources recognized by the United States Department of Education;

2. from institutions recognized by states or provinces that license or certify licensed marriage and family therapists; or

3. from equivalent foreign institutions.

G. Licensed marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

H. Licensed marriage and family therapists make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.

I. Licensed marriage and family therapists do not represent themselves as providing specialized services unless they have the appropriate education, training, or supervised experience.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 28:

§4721. Appendix C Statement of Practice for Licensed Marriage and Family Therapists

A. Each licensed marriage and family therapist/MFT intern in Louisiana shall write a statement of practice incorporating the following information to provide to all clients. LMFT's also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory committee. Sample statements of practice are available from the board office.

1. Your name, mailing address, and telephone number.
2. Qualifications:
 - a. degrees earned and institution(s) attended;
 - b. your LMFT licensure number, noting that the Board of Examiners is the grantor of your license. Include the address and telephone number of the board;
 - c. other licensure numbers, including the name, address, and telephone number of the grantor;
 - d. An MFT intern must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.
3. Specify the type(s) of clients you serve.
4. Specialty Areas:
 - a. list your specialty areas such as family of origin, parenting, stepfamilies, adolescents, marriage, etc.;
 - b. list your national certifications;
5. What clients can expect from therapy:
 - a. briefly describe the theoretical orientation and the type of techniques and/or strategies that you use in therapy;
 - b. briefly describe your philosophical view of therapy, including clients' input for treatment plans;
 - c. briefly describe your general goals and objectives for clients.
6. Note any expectations that you have for clients:
 - a. for example, clients:
 - i. must make their own decisions regarding such things as deciding to marry, divorce, separate, reconcile, and how to set up custody and visitation; that is, you may help them understand the consequences of these decisions, but your code of ethics does not allow you to advise a specific decision;
 - ii. must notify you before beginning therapy of any other ongoing professional mental health relationship or other professional relationship that might impact the therapy;
 - iii. must inform you during the therapy before being seeing another mental health professional or professional in another discipline that might impact the therapy;
 - iv. are expected to follow through on homework assignments;
 - v. are expected to inform you on their intake form and during therapy of their general physical health, any medical treatments that may impact their therapy and any medications that they are taking.
7. Code of Ethics:
 - a. state that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed Marriage and Family Therapists; and
 - b. that a copy is available on request;
 - c. you might want to specifically note some of the provisions in the Code of Ethics that you would like clients to be aware of.
8. Describe the rules governing privileged communication for Licensed Marriage and Family Therapists.
 - a. Include instances where confidentiality may be waived. This includes, but is not limited to danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect.

- b. Include the information that when providing couple, family or group treatment, a licensed marriage and family therapist cannot:
 - i. disclose any information outside the treatment context without a written authorization from each individual competent to execute a waiver; and
 - ii. may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.
 - c. If you audio- or video-tape sessions, include information specific to their use.
 - d. See Chapter 43 (Privileged Communications) and Chapter 47 (Code of Ethics) in §4721 (Appendix) for rules on privileged communication.
 9. State your policy for emergency client situations.
 10. Fees, office procedures, insurance policies:
 - a. list your fees and describe your billing policies;
 - b. state your policy on insurance payments;
 - c. describe your policy on payments, scheduling and breaking appointments, etc.
 11. Adequately inform clients of potential risks and benefits of therapy. For example:
 - a. clients may realize that they have additional issues that they were not aware of before the therapy as a result of the therapy;
 - b. making changes through therapy may bring about unforeseen changes in a person's life;
 - c. individual issues may surface for each spouse as clients work on a marital relationship;
 - d. making changes in communication and/or ways of interacting with others may produce adverse responses from others;
 - e. marital or family conflicts may intensify as feelings are expressed;
 - f. individuals in marital or family therapy may find that spouses or family members are not willing to change.
 12. Briefly add any additional information that you believe is important for your clients to be informed about your qualifications and the therapy that you provide.
 13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s) signatures, and your signature. MFT Interns need to have a line for their LMFT-approved supervisor's signature.
 - B. Provide clients with a copy or copies of the signed statement of practice.
 - C. A Licensed Marriage and Family Therapist/MFT intern must have a copy of his/her statement of practice on file in the board office. An MFT intern must include a copy of his/her statement of practice with his/her registration of supervision. The code of ethics can be duplicated for clients and additional copies are available at www.lpcboard.org or from the board office.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.
- HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Gary S. Grand
Board Chair

0209#053

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies C Final Payment

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.1 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau amended the March 20, 2000 rule by revising the disproportionate share qualification criteria for small rural hospitals (*Louisiana Register*, Volume 28, Number 8).

Qualification for disproportionate share payment is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports are assumed to be ineligible for disproportionate share (DSH) payments. In response to provider inquiries, the Bureau has determined that it is necessary to amend the August 20, 2002 rule in order to clarify the policy governing final payments and adjustments.

This action is being taken to avoid a budget deficit. It is estimated that the implementation of this proposed rule will not have a programmatic fiscal impact to the state.

Emergency Rule

Effective for dates of service on or after September 7, 2002, the Department of Health and Hospitals, Office of the Secretary Bureau of Health Services Financing amends the August 20, 2002 rule governing the disproportionate share payment methodologies for hospitals by incorporating the following clarifications.

I. General Provisions

A. - D. ...

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail

to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share (DSH) payments. Hospitals will only be considered for DSH payments if their disproportionate share qualification documentation is returned timely. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. - 3...

4. A pro rata decrease necessitated by conditions specified in I.B. above for rural hospitals described in this section will be calculated using the ratio determined by dividing the qualifying rural hospitals uncompensated costs by the uncompensated costs for all rural hospitals described in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state appropriated DSH amount. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the Department. Recoupments shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

Interested persons may submit written comments to Ben A. Bearden at the following address: Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this public process notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#018

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program Motorized/Power Wheelchairs

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for manual and motorized custom wheelchairs under the Durable Medical Equipment

Program. In order to be considered for a motorized custom wheelchair, Medicaid policy currently requires that a recipient must be either employed or in an education training program. The bureau proposes to amend its current policy governing recipient qualifications for motorized custom wheelchairs and adopt new provisions.

This action is being taken to promote the health and welfare of Medicaid recipients by avoiding further deterioration of their physical functioning. It is estimated that implementation of this Emergency Rule will increase expenditures in the Durable Medical Equipment Program by approximately \$750,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 21, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions under the Durable Medical Equipment Program governing authorization for motorized custom wheelchairs.

Recipient Criteria

A. In order to be considered for a motorized custom wheelchair:

1. a recipient must be non-ambulatory and have severe weakness of the upper extremities due to a neurological or muscular disease/condition;
2. the recipient's condition is such that without the use of a wheelchair the patient would otherwise be bed or chair confined; and
3. the recipient's condition is such that a wheelchair is medically necessary and he/she is unable to operate a wheelchair manually; and
4. the recipient is capable of safely operating the controls for a power wheelchair.

Prior Authorization

A. All requests for a power wheelchair must include the following documentation:

1. a completed PA-01 form;
2. a physician's prescription;
3. a written evaluation by a physical therapist or occupational therapist. The evaluation must include documentation of the appropriateness of the specific wheelchair requested and all modifications and/or attachments to the specific wheelchair and its ability to meet the recipient's long-term medical needs. Options that are beneficial primarily in allowing the patient to perform leisure or recreational activities are not covered; and
4. documentation that the recipient can safely operate the wheelchair and that he/she does not have the upper extremity function necessary to operate the manual chair.

B. A power wheelchair is covered if the patient's condition is such that the requirement for a power wheelchair is long term (at least six months). Approval will be made for only one wheelchair at a time. Backup chairs, either motorized or manual, will be denied as not medically necessary.

C. Wheelchairs with individualized features required to meet the needs of a particular patient will be approved under the correct code for the wheelchair base and the appropriate codes for wheelchair options and accessories. All such features and modifications are subject to prior authorization along with the wheelchair.

Covered Services

A. The following motorized wheelchairs are considered for reimbursement:

1. standard-weight frame motorized/power wheelchairs;
2. standard-weight frame motorized/power wheelchairs with programmable control parameters for speed adjustment, tremor dampening, acceleration control and braking; and
3. lightweight portable motorized/power wheelchairs.

B. Motorized/power wheelchairs are characterized by:

1. seat width: 14"-18";
2. arm style: fixed height, detachable;
3. seat depth: 16";
4. footplate extension: 16"-21";
5. seat height: 19"-21";
6. footrests: fixed or swingaway detachable;
7. back height: sectional 16" or 18".

C. A lightweight power wheelchair is characterized by:

1. weight: less than 80 pounds without battery;
2. folding back or collapsible frame.

D. Wheelchair "poundage" (pounds) represents the weight of the usual configuration of the wheelchair without front riggings.

E. The Medicaid Program will provide the least costly wheelchair that is appropriate to meet the medical needs of the recipient. Approval and reimbursement for the wheelchair codes includes all labor charges involved in the assembly of the wheelchair and all covered additions or modifications. Reimbursement also includes:

1. support services such as emergency services;
2. delivery (within the same parish);
3. set-up;
4. education; and
5. on-going assistance with use of the wheelchair.

F. The following components may be approved for use with the power wheelchair:

1. motorized/power wheelchair parts:
 - a. wheel tire for power wheelchair, any size;
 - b. rear wheel tire tube other than zero pressure for power wheelchair, any size;
 - c. rear wheel zero pressure tire tube (flat free insert) for power wheelchair, any size;
 - d. wheel tire for power base, any size;
 - e. wheel tire tube other than zero pressure for each base, any size;
 - f. drive belt for power wheelchair; and
 - g. front caster for power wheelchair.
2. Batteries/chargers for motorized/power wheelchairs:
 - a. 22 NF deep cycle lead acid battery;
 - b. 22 NF gel cell battery;
 - c. group 24 deep cycle lead acid battery;
 - d. group 24 gel cell battery;
 - e. U-1 lead acid battery;
 - f. U-1 gel cell battery;
 - g. battery charger, lead acid or gel cell; and
 - h. battery charger, dual mode.

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#088

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory Reimbursement Services Methodology Laboratory and X-Ray (LAC 50:XIX.4333)

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in April of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule, regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register*, Volume 23, Number 4).

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated additional funds to the Department of Health and Hospitals for the enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13, the Bureau proposes to increase the reimbursement rates for outpatient hospital laboratory services. It is estimated that implementation of this proposed Rule will increase expenditures for laboratory services by approximately \$1,903,687 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 16, 2002, the Department of Health and Hospitals, Bureau of Health Services Financing amends the May 20, 2002 Rule governing the reimbursement methodology for outpatient laboratory services as follows.

Title 50 PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4333. Outpatient Hospital Laboratory Services Reimbursement

A. Hospitals are reimbursed for outpatient laboratory services as follows.

1. The reimbursement rates paid to outpatient hospitals for laboratory services subject to the Medicare Fee Schedule shall be increased by 10 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1026 (May 2002), amended LR 28:

Implementation of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#090

DECLARATION OF EMERGENCY

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

Outpatient Hospital Rehabilitation Services Reimbursement Increase

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed,

outpatient hospital or a free-standing rehabilitation center (*Louisiana Register*, Volume 23, Number 6). Rehabilitation services include physical therapy, occupational therapy, and speech/hearing and language therapy.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to increase the reimbursement paid for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. As the result of the allocation of additional funds, the Bureau adopted an Emergency Rule increasing the reimbursement rates for rehabilitation services provided to children age birth through three years old (*Louisiana Register*, Volume 28, Number 7).

Act 13 also allocated additional funds to the Department for enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13 directive, the Bureau proposes to increase the reimbursement rates for outpatient hospital rehabilitation services.

This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient rehabilitation services in the Medicaid Program. It is estimated that implementation of this proposed rule will increase expenditures for rehabilitation services by approximately \$849,976 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 16, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for outpatient hospital rehabilitation services. This rate increase is not applicable to rehabilitation services rendered to Medicaid recipients up to the age of three as the reimbursement rate increase for those services were addressed in the July 6, 2002 Emergency Rule. The new reimbursement rates will be as follows.

Revenue Code	Service Description	Procedure Code	New Fee
424	Physical Therapy, evaluation	Y7702	\$68.31
434	Occupational therapy evaluation	Y7812	\$64.52
444	Speech Evaluation	Y2602	\$56.93
444	Hearing Evaluation	Y2612	\$56.93
454	Wheelchair Seating Evaluation	Y7902	\$64.52
420, 421	Physical Therapy, 1 modality	Y7000	\$25.30
420, 421	Physical Therapy, 2 or more modalities	Y7050	\$37.95
420, 421	P.T.-1 or more procedure/modality, 15 min.	Y7106	\$12.65
420, 421	P.T.-with procedures, 20 min.	Y7105	\$17.08
420, 421	P.T.-with procedures, 30 min.	Y7100	\$25.30
420, 421	P.T.-with procedures, 45 min.	Y7101	\$37.95
420,421, 422	P.T.-with procedures, 60 min.	Y7102	\$50.60
420, 421, 422	P.T.-with procedures and mod., 60 min.	Y7202	\$50.60
420, 421	P.T.-with procedures, 75 min.	Y7103	\$63.25
420, 421	P.T.-with procedures, 90 min.	Y7104	\$75.90
430, 431	Occupational therapy, 15 min.	Y7810	\$10.12
430, 431	Occupational therapy, 20 min.	Y7811	\$13.92
430, 431	Occupational therapy, 30 min.	Y7813	\$20.24
430, 431	Occupational therapy, 45 min.	Y7814	\$30.36
430, 431	Occupational therapy, 60 min.	Y7815	\$40.48

440, 441	Speech and hearing therapy, 15 min.	Y2609	\$9.49
440, 441	Speech and hearing therapy, 20 min.	Y2611	\$12.65
440, 441	Speech therapy, 30 min	Y2613	\$18.98
440, 441	Speech therapy, 45 min.	Y2614	\$28.46
440, 441, 442	Speech therapy, 60 min.	Y2615	\$37.95

This increase in outpatient hospital rehabilitation reimbursement rates is not applicable to home health rehabilitation services. Home health rehabilitation services will continue to be reimbursed at the rate paid for outpatient hospital rehabilitation services as of September 15, 2002, except for those services that were addressed in the July 6, 2002 Rule.

Implementation of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#089

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Prior Authorization Process

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

Prior law, R.S. 46:153.3, authorized coverage and reimbursement of prescription drugs in the Medicaid Program and established the Medicaid Drug Program Committee. R.S. 46:153.3.B and C allowed the Department of Health and Hospitals to limit reimbursement for multi-source prescription drugs in accordance with state and federal law; but mandated the department to provide reimbursement for any drug prescribed by a physician that, in his professional judgment and within the lawful scope of his practice, was considered appropriate for the diagnosis and treatment of the patient; and also prohibited the department from establishing a drug formulary that restricted, by any prior or retroactive approval process, a

physician's ability to treat a patient with a prescription drug that had been approved and designated as safe and effective by the Food and Drug Administration.

In recognition of the need to ensure that the state delivers a medical assistance prescription drug program which is both cost effective and prudently administered, the Louisiana Legislature enacted Act 395 of the 2001 Regular Session to amend R.S. 46:153.3.B.(2)(a) which states "The department may establish ... or any other process or combination of processes that prove to be cost-effective in the Medical Assistance Program." In addition, the Act created the Medicaid Pharmaceutical and Therapeutics Committee and abolished the Medicaid Drug Program Committee.

As authorized by Act 395, the department proposes to implement a prior authorization process with a preferred drug list for certain designated drugs covered under the Pharmacy Benefits Management Program. This action is necessary in order to avoid a budget deficit in the Medical Assistance Program.

Emergency Rule

Effective October 9, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements a prior authorization process with a preferred drug list for certain designated drugs covered under the Medicaid Pharmacy Benefits Management Program. The following provisions shall govern coverage for prescribed medications and/or supplies.

A. General Provisions. The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs. Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization and Preferred Drug List

1. A preferred drug list (PDL) shall be established by selected therapeutic classes for those drugs for which prior authorization is not required. Drugs in these classes that are not included on the PDL shall require prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

2. The prior authorization process provides for a turn-around response within 24 hours of receipt of a prior authorization request by telephone, mail or electronic communication. In emergency situations, providers may dispense at least a 72-hour supply of medication as

mandated by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8.

3. The Pharmaceutical and Therapeutics Committee will make recommendations to the Department regarding drugs to be subject to the prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3.D and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage. As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients);
6. medications which are included in the reimbursement to a facility, i.e., hospitals, skilled nursing facility for recipients receiving benefits under Part A of Title XVIII, mental hospitals, or some other nursing facilities;
7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI drugs (see E below).

E. DESI Drugs. Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act, for which the Food and Drug Administration has proposed to withdraw from the market because they are "less than effective" or "identical, related, or similar drugs," and are identified as DESI ineffective drugs shall be excluded from coverage.

Implementation of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0209#087

DECLARATION OF EMERGENCY

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

Private Hospitals CEnhanced Outlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.1 et seq. and shall be in effect for the

maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment is calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeds 200 percent of the prospective payment. The June 20, 1994 rule was subsequently amended to revise the qualification and calculation for outlier payments (*Louisiana Register*, Volume 22, Number 2). To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds for the payment of hospital outlier reimbursements, but limited payment to 100 percent of marginal cost and based on the use of updated cost-to-charge ratios. In compliance with Act 13, the bureau adopted an Emergency Rule to amend the definition of marginal cost contained in the February 20, 1996 Rule and reduce the outlier payments made to private hospitals (*Louisiana Register*, Volume 28, Number 7). In addition, the base period was changed for the hospital specific cost-to-charge ratio utilized for the calculation of outlier payments and a deadline was established for receipt of the written request filing for outlier payments.

Act 13 also directed the Department of Health and Hospitals to pay enhanced outlier reimbursements to certain hospitals meeting specific criteria set forth by the Department and approved by the Centers for Medicare and Medicaid Services. In accordance with the Act 13 directive, the Department has determined that it is necessary to develop a payment methodology for enhanced outlier reimbursements.

This action is being taken to protect the health and welfare of Medicaid eligible children by encouraging the continued participation of hospitals that furnish neonatal and pediatric intensive care services in the Medicaid Program. It is estimated that implementation of this proposed rule will increase expenditures for outlier payments to private hospitals by approximately \$4,000,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after September 7, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the February 20, 1996 rule to provide enhanced outlier reimbursements to qualifying hospitals for state fiscal year 2002-2003. A qualifying hospital is defined as a hospital whose losses calculated using the outlier payment methodology effective July 1, 2002 are at least 25 percent of the amount calculated using the outlier payment methodology in effect as of June 30, 2002. The calculation will be based on actual submitted claims for dates of service

on and after September 7, 2002 that qualify for outlier payments. A one time lump sum payment will be issued which is equal to the product of each qualifying hospital's pro rata share of outlier losses and all qualifying hospitals= outlier losses multiplied by the amount appropriated for payment of enhanced outlier reimbursements for SFY 2002-2003.

Implementation of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0209#019

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Child Care Assistance Program Incentive Bonus (LAC 67:III.5107)

The Department of Social Services, Office of Family Support has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following changes in the Child Care Assistance Program effective October 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Current regulations governing child care assistance provide for a quality incentive bonus that is paid to Child Care Assistance Program (CCAP) eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus, paid once each calendar quarter, is equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund. In an effort to encourage more providers to attain NAEYC accreditation, the agency will increase the incentive bonus to 20 percent of all payments received by that provider.

Additionally, a quality incentive bonus will be available to Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, funds from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant were appropriated for expanding access and improving quality for low-income child care. A portion of these funds was transferred to the Child Care and Development Fund to maximize flexibility of program

design. Authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5107. Child Care Providers

A. - E. ...

F. 1. Quality incentive bonuses are available to:

a. CCAP eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus will be paid once each calendar quarter, and will be equal to 20 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund;

b. CCAP eligible Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

2. These bonus amounts may be adjusted at the discretion of the Assistant Secretary, based upon the availability of funds.

G.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 28:

Gwendolyn P. Hamilton
Secretary

0209#070

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**TANF Initiatives CAdult Education, Basic Skills Training,
Job Skills Training and Retention Services
(LAC 67:III.5507)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend §5507 effective August 14, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will amend §5507, Adult Education, Basic Skills Training, Job Skill Training and Retention Services Program, to revise language regarding the TANF partner identified in the Memorandum of Understanding (MOU). The agency initially entered into an MOU with the Workforce Commission; however, the MOU now includes the

Louisiana Community and Technical College System as a TANF partner involved in the administration of this initiative. To avoid future amendments to the Code subsequent to altering the TANF partners, language is being revised to be non-specific in regards to whom the Agency contracts with or enters into an MOU.

The authorization for emergency action is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5507. Adult Education, Basic Skills Training, Job

Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to create programs to provide adult education, basic skills training, jobs skills training, and retention services to low-income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), LR 28:

Gwendolyn Hamilton
Secretary

0209#006

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**TANF Initiatives CAfter-School Tutorial and Summer
Enrichment Programs (LAC 67:III.5531)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to amend LAC 67:III.5531 effective September 29, 2002. This declaration is necessary to extend the original Emergency Rule of June 1, 2002, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in November.)

Pursuant to Act 152 of the 2002 1st Extraordinary Session of the Louisiana Legislature, the department proposes to amend §5531 by incorporating Summer Enrichment Programs into the Temporary Assistance for Needy Families (TANF) Initiative, After-School Tutorial Program. The agency is expanding the original initiative to include educational enhancement programs for school-age children during the summer months or at other times deemed necessary by the department.

Act 152 of the 2002 1st Extraordinary Session of the Louisiana Legislature modifies Act 12 of the 2001 Regular Session of the Louisiana Legislature which contained

authorization for emergency action in implementing the TANF Initiatives.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5531. After-School Tutorial and Summer Enrichment Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services and summer enrichment programs.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and 46:231, and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 28:

Gwendolyn P. Hamilton
Secretary

0209#071

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

TANF Initiatives C Child-Parent
Enrichment Services Program
(LAC 67:III.5561)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt §5561 effective September 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, Act 12 of the 2001 Regular Session of the Louisiana Legislature, and Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will implement the TANF Initiative, Child-Parent Enrichment Services Program, to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana. The Child-Parent Services Program will provide age-appropriate services during the school year, school holidays, before and after school, and the summer months to children at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers. Additionally, parents, legal guardians, or caretaker relatives of children may be provided

with parenting and adult/family educational services to pursue their own educational goals or increase their effectiveness as caregivers.

The authorization for emergency action is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5561. Child-Parent Enrichment Services Program
Effective September 1, 2002

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:

Gwendolyn Hamilton
Secretary

0209#013

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives Substance Abuse Treatment
Program for Needy Families
(LAC 67:III.5563)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953.B, the Administrative Procedure Act, to adopt §5563 effective June 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will adopt a new TANF Initiative, Substance Abuse Treatment for Needy Families to further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

The authorization for emergency action in the expenditure of TANF funds is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature and Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5563. Substance Abuse Treatment Program for Needy Families

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a non-custodial parent, caretaker relative, or legal guardian who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn Hamilton
Secretary

0209#069

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2002-2003 Waterfowl Season

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting season for ducks, coots and geese during the 2002-2003 hunting season shall be as follows.

Ducks and Coots: (60 days)

West Zone: November 9-December 8
December 21-January 19

East Zone: (Including Catahoula Lake)
November 16-December 1
December 14-January 26

Pintail Season Dates: (30 days)

West Zone: November 9-December 8
East Zone: November 16-December 1
December 14-December 27

Canvasback Season Closed

Youth Waterfowl Weekend

November 2-3 in West Zone, November 9-10 in East Zone

Daily Bag Limits

The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail (during the specified 30 day season only and during youth hunts), 3 scaup, and 2 redhead. Daily bag limit on coots is 15.

Mergansers

The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit

The possession limit on ducks, coots and mergansers is twice the daily bag limit.

Geese: Light Geese (Snow, Blue And Ross') And White-Fronted Geese

Statewide: (86 days) November 2-December 8
December 14-January 31

Daily bag limit on light geese (snow, blue and Ross'): 20
Possession limit on light geese (snow, blue and Ross'): None
Daily Limit on white-fronted geese: 2
Possession Limit on white-fronted geese: 4

Canada Geese

Closed in the Area Described Below

January 18-January 26

Daily Limit on Canada geese: 1
Possession limit on Canada geese: 2

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any license vendor.

Conservation Order for Light Geese (Snow, Blue And Ross')

Statewide: December 9-December 13
February 1-March 9

Only snow, blue and Ross' geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begin one-half hour before sunrise and extend until one-half hour after sunset.

Rails

November 9-January 8

King and Clapper

Daily bag limit 15 in the aggregate, Possession 30

Sora and Virginia

Daily bag and possession 25 in the aggregate

Gallinules

November 9-January 8

Daily bag limit 15, Possession limit 30

Snipe

November 2-December 8

December 14-February 21

Daily bag limit 8, Possession limit 16

Shooting Hours

One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2002 and extend through sunset on March 9, 2003.

Thomas M. Gattle, Jr.
Chairman

0209#041

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer and Elk Importation (LAC 76:V.117)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Emergency Rule is effective September 5, 2002 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in nine states. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian provinces of Saskatchewan and Alberta. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, New Mexico, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeld-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal is infected until it exhibits symptoms) is at least 18 months and may be as long as 35 years. Until symptoms appear,

infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration, general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. These movements are often from state to state. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana. Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern. At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what animals they have been in contact with, are seldom available. In some states, including Louisiana, captive deer and elk may be introduced into large enclosures containing wild deer. Once introduced into large, often heavily vegetated enclosures, the animals usually cannot be monitored or re-captured. Enclosures are not escape-proof and escapes or fence to fence contact with free ranging wild deer can be expected.

The Louisiana Department of Agriculture and Forestry has licensed approximately 120 alternative livestock farms that average about 12 acres in size and contain an average of about 10-20 deer each. In addition, 15 supplemented hunting preserves that are at least 300 acres each are licensed by LDAF. These supplemented hunting preserve enclosures may contain both released deer and native wild deer. The Louisiana Department of Wildlife and Fisheries licenses about 115 non-commercial game breeders that possess deer. The deer and elk farming industry in Louisiana is small, and as a whole, not highly dependent on imported deer. In 2000, the LDAF issued only 10 importation permits involving 57 deer.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2001, there were approximately 172,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *1996 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of \$603,909,581 per year and provides over 8,500 jobs. Many landowners receive income from land leased for deer

hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Governor of Wisconsin has estimated that \$22,000,000 will be needed to address the CWD outbreak in that state. The Colorado Division of Wildlife requested \$2,300,000 in FY 2002/03 to address CWD outbreaks in their state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting related retail purchases would therefore be likely. In Wisconsin, Department of Natural Resources personnel report that a significant decline in land value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak involves depopulating an area surrounding the infection site(s). By way of example, Wisconsin Department of Natural Resources personnel and landowners are attempting to kill 25,000 deer in a 374-square mile area for testing. In Colorado, the Division of Wildlife is killing as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions on the importation of deer and elk have been instituted in at least 28 states, including Texas, Mississippi, and Arkansas. Other states have developed rules that require that imported deer and elk must originate from herds that have been certified free of CWD for at least five years. However, because few, if any, herds in the United States can meet that standard, this Rule is effectively an importation prohibition.

In May 2002, the Louisiana Wildlife and Fisheries Commission by Declaration of Emergency and accompanying Notice of Intent, prohibited the importation into, or transport through, Louisiana of deer and elk. However, unless there is an explicit prohibition against the possession of illegally imported deer, and a requirement to maintain adequate documentation of the source of the deer, the effectiveness of the importation rules may be limited. This puts Louisiana's wild deer herd at increased risk for introduction of CWD. Introduction of CWD into Louisiana could have wide-ranging and significant negative impacts on the state's wild deer resources and economy. For these

reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on possession of illegally imported deer and a requirement to maintain documentation of the source of captive deer is warranted.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. Deer and Elk Importation

A. Definitions

Elk or Red Deer Any animal of the species *Cervus elaphus*.

Mule Deer or Black-Tailed Deer Any animal of the species *Odocoileus hemionus*.

White-Tailed Deer Any animal of the species *Odocoileus virginianus*.

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter "deer"), into or through the state of Louisiana. No person shall import, transport or cause to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any Imposition of Quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at 1-800-442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with LWFC and Department of Wildlife and Fisheries Rules and Regulations.

C. No person shall receive or possess deer or elk imported or transported in violation of this Rule. Any person accepting delivery or taking possession of deer or elk from another person has a duty to review and maintain bills of sale, bills of lading, invoices, and all other documents which indicate the source of the deer or elk.

D. This Rule shall be in effect until May 30, 2005.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:

Thomas M. Gattle, Jr.
Chairman

0209#042

DECLARATION OF EMERGENCY

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

Game Breeder's License (LAC 76:V.107)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Emergency Rule is effective September 5, 2002 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in nine states. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian provinces of Saskatchewan and Alberta. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, New Mexico, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeld-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal is infected until it exhibits symptoms) is at least 18 months and may be as long as 35 years. Until symptoms appear, infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration,

general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana. Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern. At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what animals they have been in contact with, are seldom available. Enclosures are not escape-proof and escapes or fence to fence contact with free ranging wild deer can be expected.

The Louisiana Department of Wildlife and Fisheries licenses about 115 non-commercial game breeders that possess deer. These game breeders are usually small, non-commercial operations that keep deer for exhibit or pets. The Louisiana Department of Agriculture and Forestry licenses commercial deer and elk facilities. The deer and elk farming industry in Louisiana is relatively small.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2001, there were approximately 172,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *1996 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of \$603,909,581 per year and provides over 8,500 jobs. Many landowners receive income from land leased for deer hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Governor of Wisconsin has estimated that approximately \$22,000,000 will be needed over the next 3 years to address the CWD outbreak in that state. The Colorado Division of Wildlife has requested an

additional \$2,300,000 in FY 2002/03 to address CWD outbreaks in their state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting-related retail purchases would therefore be likely. In Wisconsin, Department of Natural Resources personnel report that a significant decline in land value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak involves depopulating an area surrounding the infection site(s). By way of example, Wisconsin Department of Natural Resources personnel and landowners are attempting to kill 25,000 deer in a 374 square mile area. In Colorado, the Division of Wildlife is killing as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions on the importation of deer and elk have been instituted in at least 28 states including Texas, Arkansas, and Mississippi. Other states have developed rules that require that imported deer and elk originate from herds that have been certified free of CWD for at least 5 years. However, because few, if any, herds in the United States can meet that standard, this Rule is effectively an importation prohibition.

In May 2002, the Louisiana Wildlife and Fisheries Commission by Declaration of Emergency and accompanying Notice of Intent, prohibited the importation into, or transport through, Louisiana of deer and elk. However, CWD infected animals could have entered Louisiana prior to this action, or may have been imported in violation of this action. Continued issuance of new game breeder licenses for deer increases the potential exposure of wild deer to CWD. Allowing captive deer herds to proliferate and expand into new areas of Louisiana increases the opportunity for unwanted contact between wild and captive deer. In the event of a CWD outbreak in Louisiana, the presence of captive deer could hinder CWD control and eradication efforts. For these reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on the issuance of new game breeder licenses for deer is warranted. This prohibition will remain in effect until no longer necessary.

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§107. Game Breeder's License

A. - B.7. ...

8. White-Tailed Deer or Other North American Deer

a. Except as specified herein, licenses will not be issued. Licenses will not be issued unless pens are completed and complete applications are received in the Wildlife Division Baton Rouge Office by 4:30 p.m. October 4, 2002. Pens must be inspected before a license will be issued. If at the time of inspection, pens do not meet the requirements of this rule, a license will not be issued and the application will not be reconsidered. Persons with valid licenses issued prior to this prohibition will be "grandfathered" and licenses may be renewed if all requirements are met. Licenses cannot be transferred beyond immediate family (father, mother, brother, sister, husband, wife, son and daughter). A license may be transferred to an immediate family member only if the pen remains in the original location. Qualified zoos, educational institutions and scientific organizations may be exempted on a case by case basis.

b. No license will be issued in metropolitan or urban areas. A rural environment is required to keep these animals. Qualified zoos, educational institutions and

scientific organizations will be exempted on a case by case basis.

c. Single Animal. 5,000 square feet paddock or corral (For example: 50 feet wide by 100 feet long); increase corral size by 2,500 square feet for each additional animal; shelter required. Pen site must be well drained so as to prevent extended periods of standing water.

d. Materials. Chain link or other satisfactory woven wire, 12 gauge minimum, 8 feet high minimum. Welded wire is not acceptable.

e. Licensed game breeders are required to report all deaths of deer to a regional Wildlife Division office within 48 hours of the time of death and preserve the carcass as instructed by the Wildlife Division, but are encouraged to report the death sooner if possible.

B.9. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:1355 (December 1995), LR 28:

Thomas M. Gattle, Jr.
Chairman

0209#043

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Jobs for Louisiana's Graduates (JLG) Program (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The revision will add a statewide course elective code for the Jobs for Louisiana's Graduates (JLG) Program. The change is being requested to provide a standard statewide code, eliminating the process to apply for a Locally Initiated Elective and create course code.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22.(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001) LR 28:1936 (September 2002).

Jobs for Louisiana's Graduates (JLG) Program

2.105.08

Jobs for Louisiana's Graduates elective course credit toward high school graduation shall be awarded to any student who successfully masters the Jobs for Louisiana's Graduates' core competencies and other additional competencies in the model curriculum.

Jobs for Louisiana's Graduates shall be as follows:

Course Title	Units
Jobs for Louisiana's Graduates I, II, III, and IV	1-3 credits each

Teachers shall be certified in any secondary certification or Jobs for Louisiana's Graduates VTIE certification.

Weegie Peabody
Executive Director

0209#023

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School Administrators C Policy for Louisiana's Public Education Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The changes more clearly explain and refine existing policy as it pertains to the appeals process for district accountability

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10, 11; R.S. 17:22.(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000), LR 26:1260 (June, 2000), LR 26:1260, 1261 (June, 2000), LR 28:1936 (September 2002).

The Louisiana School and District Accountability System Appeals Procedures

1.007.05 An appeal procedure has been authorized by the State Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and unusual factors impacting districts in Louisiana.

The department shall review appeal requests and make recommendations to the SBESE within 60 days of receipt of an appeal request. Within this interval, the department shall notify LEAs of its recommendations and allow them to respond. The department's recommendations and LEA responses will be forwarded to SBESE for final disposition.

An *appeal* is generally defined as a request for the calculation or recalculation of the District Performance Score (DPS) and/or District Responsibility Index (DRI). See Standard 1.007.01.)

Criteria for Appeal

A district may request an appeal if:

1. the recalculated District Performance Score (DPS) results in a change of at least five points (+/-5);
2. the overall recalculated District Responsibility Index (See Standard 1.007.01.) and/or one of its four indicators result(s) in a change in the performance label assigned;
3. factors beyond the reasonable control of the local governing board of education (LEA) and also beyond the reasonable control of the school(s) within the LEA exist.

General Guidelines: Local Board of Education-Level Requests

The Superintendent or official representative of each local governing board of education shall complete the LDE's Appeals Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the official release of the official release of the District Performance Scores and the Performance Labels for the District Responsibility Index.

Data corrections shall not be grounds for an appeal request unless evidence attributes data errors to the LDE.

Supporting documentation for appeal requests should clearly identify those data that are erroneous due to LDE error.

General Guidelines: Parent/School-Level Requests

Parents or individual schools seeking an appeal on issues relating to Louisiana's District and School Accountability System shall file their requests, regardless of the type, through the Superintendent, or appointed representative as authorized by the local governing board of education.

Weegie Peabody
Executive Director

0209#022

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School Administrators C Pre-GED/Skills Option Program (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). This action is will update Pre-GED/Skills Options Policy. In revising the testing language the Pre-GED/Skills Options Policy will be aligned with Special Education Guidelines.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22.(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001), LR 28:1937 (September 2002).

Pre-GED/Skills Option Program

1.151.05. A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. Program components may be phased in with full implementation required by school year 2002-2003.

(See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Program shall be submitted and shall address the following program requirements.

1. Students shall be 16 years of age or older and meet one or more of the following criteria:
*shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;
*shall have failed English language arts, math, science and/or social studies portion of the GEE;
*shall have participated in out-of-level testing or alternate assessment;
*shall earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, not more than 15 Carnegie units by age 19.
2. Enrollment is voluntary and requires parent/guardian consent.
3. Counseling is a required component of the program.
4. The program shall have both a Pre-GED/academic component and a Skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses in developing the Skills component.
5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.
6. Students who complete only the Skills section will be given a Certificate of Skills completion.
7. Students will count in the October 1 MFP count.
8. Students will be included in School Accountability. While enrolled, they will be required to take the ninth grade Iowa Test, participate in out-of-level testing or alternate assessment. All programs will be considered Option 1 for alternative education purposes, and student data will be sent back to the high schools to be included in the attendance and dropout rates and in the Iowa Test scores.
(See Standards 2.006.17 or Bulletin 741.)

Refer to the Guidelines of Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

Weegie Peabody
Executive Director

0209#024

RULE

Board of Elementary and Secondary Education

Bulletin 904C Guidelines for the Submission of a Charter School Proposal C Fiscal Oversight Procedures (LAC 28:I.904)

Editor's Note: This Rule is being repromulgated to correct a citation error. The original rule may be viewed in the June 20, 2002 edition of the *Louisiana Register* on pages 1187-1189.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 904C *Guidelines for the Submission of a Charter School Proposal* referenced in LAC 28:I.904. The revisions will improve the monitoring of fiscal and programmatic compliance issues common to charter schools and improve the delivery of technical assistance to charter schools that receive state and/or federal funding from

BESE or LDOE. This action is required by Act 991 (HB 1282) of the 2001 Regular Session, which revised the charter school law by adding two new subsections that deal with the fiscal practices and reporting requirements of charter schools.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§904. Charter Schools

A. - B. ...

C. Charter School Fiscal Oversight Procedures

1. Initial Budgets as Submitted in Charter School Proposals. The current guidelines approved by BESE require Type 2 charter schools to provide detailed budget data in their proposal. This data is reviewed by BESE staff, the proposal review committee, and the LDOE Division of Education Finance. The budget, as well as the entire proposal is incorporated into the charter agreement. The budget must include:

- a. summary of revenues for years 1-5 (including all funding sources);
- b. summary of expenditures by category, for years 1-5;
- c. details of budget expenditures by object code, for years 1-5;
- d. explanatory narratives by object code of budget expenditures;
- e. spreadsheets comparing revenues and expenditures for years 1-5;
- f. assurances that the charterer will adhere to the Local Government Budget Act (R.S. 39:1301-1315). [Each charter school will submit an annual operating budget to BESE no later than July 1 of each year using the standard budget summary forms and budget detail forms developed by BESE and LDOE, and using guidance provided in the LAUGH Handbook (Bulletin 1929).]

2. Financial Reporting

a. Each charter school will submit an Annual Financial Report to LDOE that is required around September 30 of each year.

b. Each charter school will submit quarterly reports to BESE listing revenues and expenditures for that quarter and cumulative for the fiscal year to date. Those reports will be due on October 15, January 15, April 15 and July 15, using forms developed by BESE and LDOE.

3. State And Federal Allocations By Student Membership Count. Each Type 2 charter school must include in its original proposal projections of student enrollment for the first five years.

a. State Allocations

i. Enrollment projections are verified with the school principal or other designated school representative prior to the beginning of each school year.

ii. The current guidelines approved by BESE require that initial monthly allocations shall be calculated by the LDOE, Division of Education Finance, using these projected student counts each year, and once the October 1 student counts are submitted, monthly allocations are re-calculated and adjusted to reflect the actual student count.

iii. In order to provide for adjustments in allocations made to Type 2 charter schools, an additional pupil membership count will be conducted on or about February 15 to reflect any changes in pupil enrollment that may occur after October 1 of each year. Any allocation adjustment made pursuant to this February 15 count shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year.

iv. The data acquired from the pupil membership counts will be used by LDOE for trend analysis to project allocations for the next school year.

b. Federal Allocations

i. The Division of Education Finance will provide to BESE staff with a quarterly report of allocations of federal program funds made to charter schools.

ii. The responsible Division/Program Directors within LDOE will provide periodic reports to BESE on the status of the federally funded program(s) at each charter school.

iii. Charter schools must submit copies of invoices or similar documentation to BESE to substantiate all reimbursement requests for federal grant funds issued from the BESE office. All requests for reimbursements must be signed by the duly authorized representative of the charterer.

4. Audits of State And Federal Funds. The guidelines and the charter agreement include language notifying each charter school that it is subject to audit by BESE, LDOE, the Legislative Auditor, and any other appropriate state official.

a. The charterer must agree to follow state audit and reporting requirements established by the Legislative Auditor and R.S. 24:513-556.

5. General Fiscal Procedures

a. The charter school guidelines and/or the charter contract signed by each charterer stipulates that:

i. "The parties acknowledge that the Louisiana Department of Education is developing procedures and rules to ensure fiscal and educational accountability for charter schools, the content of which shall be incorporated into this contract upon their adoption as regulations by BESE."

ii. "The charterer shall present all documentation requested by BESE or LDOE relative to compliance with law, guidelines or contract within 10 days."

iii. "Charterer shall allow representatives from BESE, the Louisiana Department of Education, the Louisiana Legislative Auditor, any other appropriate state officials, and contracted evaluators to visit the school site at any time to insure that the school is being operated pursuant to its charter and applicable laws and regulations."

iv. "Charterer shall allow the state officials full access to its financial and educational records, reports, files and documents of any kind."

v. "Charterer further agrees to supply timely all reports, test results and other information which are required under its charter, state law and regulations."

b. Any charter school that receives state or federal money directly from BESE or LDOE. The president or chairman of the non-profit corporation (charterer) that operates the charter school will be the official contact and duly authorized representative for all notices or inquiries issued by BESE, LDOE, or other state or federal agencies. The board of directors of the non-profit corporation may identify and officially designate by board motion, a member

of that board of directors other than the president or chairman who will serve as their duly authorized representative. Copies of all notices or inquiries will also be provided to the school principal.

c. All transactions or requests submitted by the charterer to BESE must be signed by the duly authorized representative of the charterer.

6. Technical Assistance

a. BESE and LDOE will conduct annual fiscal and programmatic inservice meetings or workshops. It is the responsibility of the charterer to send appropriate staff or representatives of the charter school to these inservice meetings.

b. BESE and LDOE will provide charterer with copies of:

i. LAUGH Guide (Louisiana Accounting and Uniform Government Handbook) (LDOE Bulletin 1929);

ii. Best Financial Practices for Louisiana Local Government (Louisiana Legislative Auditor);

iii. School Activity Accounts (Accounting, Auditing, and Financial Reporting) (Louisiana Legislative Auditor).

NOTE: However, it is the responsibility of the charterer to institute and implement acceptable programmatic and fiscal procedures.

7. Remedies and Penalties

a. Per BESE action in December 1999, the Board will withhold funds to charter schools that do not submit requested data by designated deadlines to Board staff, the Department, and the evaluators contracted by BESE until such time as the required information is provided.

b. Any failure by the charterer to provide required fiscal or programmatic information will be reported to BESE at its next scheduled meeting. The duly authorized representative of the charterer must then appear before BESE at that meeting to explain the failure to provide the required information.

c. R.S. 17:3992 provides for revocation of a charter upon determination by the chartering authority that the charter school or its officers or employees did any of the following:

i. committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;

ii. failed to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter;

iii. failed to meet generally accepted accounting standards of fiscal management;

iv. violated any provision of law applicable to a charter school, its officers, or employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75.C(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1683 (September 1998); amended LR 25:249 (February 1999); LR 26:460 (March 2000), LR 28:1187 (June 2002), repromulgated LR 28:1938 (September 2002).

Weegie Peabody
Executive Director

0209#007

RULE

Board of Elementary and Secondary Education

Bulletin 103C Louisiana Health Education
Content Standards (LAC 28:LIX.Chapters 1-11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted Bulletin 103, *Louisiana Health Education Content Standards*. Bulletin 103 will be printed in codified format as Part LIX of the Louisiana Administrative Code. The *Louisiana Health Education Content Standards* will be disseminated to local school districts following publication. The standards and benchmarks therein will be used to guide curriculum development for all health education courses. Implementation of the guidelines set forth in the *Louisiana Health Education Content Standards* will improve educational practices and coherence in the local health education programs. The *Louisiana Health Education Content Standards* will align the curriculum with desired changes to promote a more relevant health education curriculum for all students.

Title 28

EDUCATION

Part LIX. Bulletin 103C Louisiana Health Education Content Standards

Chapter 1. General Provisions

§101. Introduction

A. In this era of educational reform, health education standards are critical to improving quality of life through student learning. They provide direction for moving toward excellence in teaching health information. Quality health education provides guidance for maintaining a healthy lifestyle for all individuals, including females and those with disabilities. Through competency of key concepts and skills outlined in this document, students will become health-literate, effective problem-solvers, self-directed learners, effective communicators, and responsible, productive citizens.

B. Health Literacy is the capacity of an individual to obtain, interpret, and comprehend basic health information and services and the competence to use such information and services in ways that are health enhancing for the individual, family, and community. Four characteristics are identified as being essential to health literacy. The health-literate person is:

1. a critical thinker and problem solver;
2. a responsible, productive person;
3. a self-directed learner; and
4. an effective communicator.

C. A fundamental mission of schools is the promotion of healthy behaviors by providing individuals with knowledge, abilities, and skills to become healthy and productive citizens. Optimal health leads to effective living, learning and enjoyment of life for all individuals. It is also an asset for students facing intense competition, peer pressure, stress, and a full program of intellectual and physical activities. The primary purpose of health education is the translation and integration of health concepts into personal behavior.

D. The Louisiana Health Education Content Standards offer a coherent vision of what it means to be health-literate.

These standards identify the knowledge and skills essential to the development of health literacy. In addition, the standards provide a guide for enhancing and continuing education of teachers and as a blueprint for local curriculum developers. The standards are broad enough to allow flexibility according to strengths or challenges identified in each community and to make them culturally relevant.

E. Louisiana Health Education Content Standards establish a framework for interdisciplinary connections across learning areas and the inclusion of school health curriculum. This type of framework will facilitate a new and more informed consensus among Louisiana educators and the public to further refine the answers to the question: "What should all Louisiana students know and be able to do at the end of health education instruction?"

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1939 (September 2002).

§103. Goal

A. The goal of the standards project is to:

1. develop a framework of essential knowledge and skills for Louisiana students that reflects contemporary knowledge about teaching and learning;
2. prepare students to apply their knowledge in a variety of situations; and
3. prepare students for life-long learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1940 (September 2002).

§105. Definitions

Adolescent Risk BehaviorsCbehaviors identified by the U.S. Centers for Disease Control and Prevention (CDC) as being the most influential in the health of our nation's youth. These behaviors include avoidance of:

1. tobacco use;
2. dietary patterns that contribute to disease, sedentary lifestyle, sexual behaviors that result in HIV infection/other STDs and unintended pregnancy, alcohol and other drug use; and
3. behaviors that result in unintentional and intentional injuries.

Critical Thinker and Problem SolverChealth-literate individuals are critical thinkers and problem solvers who identify and creatively address health problems and issues at multiple levels, ranging from personal to international. They use a variety of sources to access the current, credible, and applicable information required to make sound health-related decisions. Furthermore, they understand and apply principles of creative thinking along with models of decision-making goal setting in a health-promotion context.

Effective CommunicatorsChealth-literate individuals who organize and convey beliefs, ideas and information about health through oral, written, artistic, graphic, and technologic mediums are effective communicators. They create a climate of understanding and concern for others by listening carefully and responding thoughtfully and presenting a supportive demeanor which encourages others to express themselves. They conscientiously advocate for positions, policies, and programs that are in the best interest

of society and intended to enhance personal, family, and community health.

Health Education StandardsCstandards specify what students should know and be able to do. They involve the knowledge and skills essential to the development of health literacy. That "knowledge" includes the most important and enduring ideas, issues and concepts in health education. Those "skills" include the ways of communicating, reasoning, and investigating which characterize health education. Health Education standards are not merely facts, rather, they identify the knowledge and skills students should master to attain a high level of competency in health education.

Health LiteracyCthe capacity of an individual to obtain, interpret, and understand basic health information and services and the competence to use such information and services in ways which are health enhancing.

Institution for Higher EducationCa college or university that awards undergraduate degrees and that may include programs of professional preparation for teachers.

Local Education AgencyCthe organization that has the responsibility for overseeing the public education of students within a community.

Performance IndicatorCspecific concepts and skills which fourth-, eighth-, and eleventh-grade students should know and be able to do to achieve the National Health Education Standards. They are intended to help educators focus on the essential knowledge and skills basic to the development of health-literate students. They serve the same purpose as the benchmarks in other standards documents. The performance indicators form a blueprint for organizing student assessment.

Responsible, Productive CitizensCindividuals who realize their obligation to ensure that their community is kept healthy, safe, and secure so that all citizens can experience a high quality of life. They also realize that this obligation begins with oneself. That is, they are responsible individuals who avoid behaviors which pose a health or safety threat to themselves and/or others, or an undue burden on society. Finally, they apply democratic and organizational principles in working collaboratively with others to maintain and improve individual, family, and community health.

School Health EducationCone component of the comprehensive school health program. This component includes the development, delivery, and evaluation of a planned instructional program and other activities for students pre-school through grade 12, for parents, and for school staff. It is designed to positively influence the health knowledge, attitudes, and skills of individuals.

School Health EducatorCa practitioner who is professionally prepared in the field of school health education, meets state teaching requirements, and demonstrates competence in the development, delivery, and evaluation of curricula for students and adults in the school setting that enhance health knowledge, attitudes, and problem-solving skills.

Self-Directed LearnerChealth-literate individuals are self-directed learners who have a command of the dynamic, changing health promotion and disease prevention knowledge base. They use literacy, numeracy, and critical thinking skills to gather, analyze, and apply health information as their needs and priorities change throughout

life. They also apply interpersonal and social skills in relationships to learn from and about others and, as a consequence, grow and mature toward high-level wellness.

State Education Agency—the department of state government that has the responsibility for overseeing the public education of students within the state.

State Health Agency—the department of state government that has the responsibility for recording and overseeing the health of citizens within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1940 (September 2002).

§107. Content Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills that should apply to all disciplines.

1. **Communication.** A process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. **Problem Solving.** The identification of an obstacle or challenge and the application of knowledge and thinking process which include reasoning, decision-making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. **Resource Access and Utilization.** The process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential in all learning processes. These resource tools include:

- a. pen;
- b. pencil;
- c. paper;
- d. audio/video material;
- e. word processors;
- f. computers;
- g. interactive devices;
- h. telecommunication; and
- i. other emerging technologies.

4. **Linking and Generating Knowledge.** The effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continued improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. **Citizenship.** The application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's civil, constitutional, and statutory rights; and
- c. mentoring others to be productive citizens and lifelong learners.

NOTE: These foundation skills are listed numerically in parentheses at the end of each benchmark.

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§109. Need and Context for Reform

A. Education reform is driven by concerns of government and business leaders for the future of the country in a technological world economy. Parents and community members concur that calling for reform will enable students to become responsible members of their families and communities. It is agreed that essential preparation for success in work and family and community settings includes acquisition the foundation skills. Future workers and members of society need the ability to apply knowledge from multiple sources and to work cooperatively.

B. Health: A Key Component

1. Educational excellence in traditional content areas may not be sufficient to secure the future competitiveness of the country. Alcohol, tobacco, and other drug use as well as low levels of physical activity, poor nutrition, injuries, teenage pregnancy, sexually transmitted diseases, and stress contribute to a lower health status and result in loss of work and school time.

2. Health education in schools is essential to enable students to acquire the knowledge and skills needed to practice good health. Implementation of planned, sequential health curricula has been linked to changes in students' attitudes and behaviors. Poor health habits often carry over into adulthood. Students who follow good health habits are more alert, perform at a higher level, are absent less, and have greater self-esteem. These traits carry over into adulthood. Healthy adults will be prepared to contribute to the nation's economic competitiveness by working more effectively and decreasing employee absenteeism. Due to an increase in disease prevention, fewer medical services will be required, thereby reducing health insurance costs.

3. Decreased business costs will increase productivity as a result of a workforce of healthy individuals. In addition, health knowledge and skills, when applied, ensure a better quality of life.

C. The Recognized Need

1. The major health problems facing the United States today are largely preventable, and attributable to a few types of behaviors. Such behaviors include those that lead to injury through violence or accidents, drug and alcohol abuse, poor nutrition, suicide, pregnancy and insufficient physical activity (*Surgeon General's Report*, 1996). Additionally, recent studies suggest that adolescent depression may approach 8 percent of the population, and approximately 15-20 percent of adolescents will express depression during

their teen years (Schlozman, 2001). It is important that we address these behaviors early in a child's education through school programs.

2. More children are developing habits that lead to unhealthy lifestyles. Findings from the *Surgeon General's Report* and the Centers for Disease Control and Prevention (CDC) indicate that as students age, they participate in fewer forms of physical activity. This finding, coupled with additional risk factors (e.g., tobacco and drug use, poor nutrition and poor eating habits, increase in sedentary activities) leads to an increasing incidence of cardiovascular disease, cancer, stroke, obesity, and Type II diabetes. For cardiovascular disease, cancer, and diabetes, Louisiana has higher rates than the national average (BRFSS, 1996).

3. The cost of cardiovascular diseases and stroke in the United States in 2001 was estimated at \$329.2 billion (AHA, 2002). This figure includes both direct cost health expenditures (the cost of physicians and other professionals, hospitals and nursing home services, medications, home health, and other medical durables) and indirect cost health expenditures (loss of productivity resulting from morbidity and mortality). Cardiovascular diseases claim the lives of more than 15,000 Louisiana residents each year making it the state's number one killer. Many of these lives could be saved if bystanders promptly phone 911, begin cardiopulmonary resuscitation (CPR), and if trained rescuers provide defibrillation within minutes.

4. Louisiana has alarming rates of obesity. In a recent report from the CDC, Louisiana was ranked twentieth out of 25 states for its level of obesity. In a similar report, New Orleans was found to be the most obese city in America. In 1996, 33 percent of adults in Louisiana reported being overweight according to the Behavioral Risk Factor Surveillance System (BRFSS). There is evidence to conclude that obesity-related diseases account for approximately 80 percent of the national health care budget, or about \$100 billion. Health-risk behaviors claim a high proportion of Louisiana's Medicaid dollars (48 percent).

5. In addition, suicide has become a significant cause of death in the United States. Based on facts published by CDC and from the Louisiana Adolescent Suicide Prevention Task Force:

- a. for people from 15-25 years old, suicide is the third leading cause of death;
- b. more teenagers and young adults die from suicide than from cancer, AIDS, heart disease, birth defects, strokes, pneumonia, influenza, and chronic lung disease combined; and
- c. in 1996, medical treatment for youth suicide in Louisiana for ages 0 to 20 years was \$364,000,000.

6. Suicide prevention, along with other health education issues can be easily integrated into the health education curriculum that is based on health education content standards. Today, the goals of health education focus more on the development of the whole person. Greater emphasis is placed on health and wellness of the human being. Promoting personal well-being includes attention to mental health as well as physical health.

D. Looking Forward

1. Traditionally, the health education curriculum has been organized around health content topic areas. Today, greater emphasis is placed on health and wellness. The

Health Education Content Standards are an ideal means for providing guidelines for curriculum addressing high-risk behaviors and healthy lifestyles.

2. The U.S. Centers for Disease Control and Prevention (CDC) has identified six risk behaviors that are incorporated in the organization of the new health content standards. The six risk behaviors include:

- a. tobacco use;
- b. sedentary lifestyle/poor physical activity patterns;
- c. alcohol and drug abuse;
- d. unhealthy dietary behaviors;
- e. behaviors that result in accidents and injuries;
- f. sexual behaviors that result in sexually transmitted diseases and unintended pregnancy.

3. In collaboration with health and education partners (Association for the Advancement of Health Education of the American Alliance for Health, Physical Education, Recreation, and Dance, American School Health Association, American Public Health Association, and American Cancer Society), the CDC assists in providing states with information and skills needed to avoid such risk behaviors. The eight components of a coordinated school health program systemically address these risk behaviors and the development of healthy lifestyles. They include:

- a. health education;
- b. physical education;
- c. health services;
- d. nutrition services;
- e. counseling, psychological, and social services;
- f. healthy school environment;
- g. health promotion for staff;
- h. family and community involvement.

4. Coordinated school health programs offer the opportunity for us to provide the services and knowledge necessary to enable children to be productive learners and to develop skills for making health decisions for the rest of their lives.

E. Purpose

1. This framework document organizes and integrates the content and process of health education. It serves as a bridge between classroom practice and national standards established by the health education community. The standards define what a health-educated person should know, understand, and be able to do. Although the standards provide a framework for curriculum development, local education agencies may choose topics to meet the needs of children and youth in their communities.

2. The Louisiana Health Education Content Standards framework is designed to guide the process of reforming health education in this state. It provides the following:

- a. a framework for developing a comprehensive K-12 health education curriculum;
- b. a catalyst for insightful discussion of the fundamental nature of health education;
- c. a guide for evaluating progress and achieving health education benchmarks among the students of Louisiana;
- d. a vision of health education for the state; and
- e. a tool to enable local districts, schools, and educators to grasp the nature, purpose, and role of health education.

F. Intended Audiences. This document is intended for use mainly by kindergarten through grade 12 teachers of health education and curriculum developers to plan curriculum, instruction, and assessment.

G. Intended Use. Intended uses for this framework include the following:

1. for teachers and curriculum developers a guide for planning curriculum, instruction and assessment;
2. for parents a means for gaining information regarding the effectiveness of their children's health education program;
3. for administrators and school board members a vision for health education and a basis for planning resource allocations, material purchases, local curriculum development and teachers' professional development;
4. for policymakers and state education staffs a basis for developing laws, policies and funding priorities to support local reforms;
5. for staff developers a basis for creating professional development materials and strategies designed to increase teachers' knowledge of health education content, teaching methodologies and assessment strategies;
6. for assessment specialists and test developers a guide for the development of an assessment framework to assess students' health education understanding and ability more effectively;
7. for colleges and university faculties a guide for content and design of teacher preparation programs; and
8. for business and industry leaders and government agencies a basis for developing effective partnerships and local reforms for funding instructional materials and professional development.

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Chapter 3. Teaching and Learning of Health Education

§301. Centers for Disease Control and Prevention Recommendation

A. The Centers for Disease Control and Prevention (CDC) recommends teaching health education as a self-contained class with infused classes serving as an adjunct to, instead of substituting for, health education classes. Infused classes are defined as courses that include some health education content, but primarily focus on another subject. Centers for Disease Control and Prevention (CDC) recommends teaching health as an academic class where the lessons are taught sequentially, behaviorally focused, and promote positive messages.

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§303. Curriculum Integration

A. Adoption of standards across curricular areas increases the potential to make connections which come naturally among subjects from early childhood through high school. Curriculum integration can help students make connections between health content and generic skills (e.g.,

critical thinking, decision-making, etc.). In addition to teaching health education in a self-contained environment, integration of other subjects will support, rather than replace, student learning of health education concepts. However, for integration to be effective, staff development must occur. Teachers need time to meet collaboratively, to identify connections across subject areas, and to plan curricular integration within and across grade levels.

B. In teaching health education, other subject areas can be easily integrated. Health education curricula can be easily integrated with reading comprehension, language arts, science, mathematics, social studies, and physical education. For example, at the elementary level, the health education curriculum is specifically intended to teach the interpersonal and conflict management skills students need to "get along." These skills are grounded in listening and speaking effectively. Health education also affords students many opportunities to write about topics of interest to them such as their personal feelings, growth, and development. In addition, students can apply the mathematical and science processes of measuring, charting, graphing, estimating, predicting, justifying, and classifying in conjunction with health lessons. At the middle and high school levels:

1. language skills are utilized in accessing and evaluating health information;
2. citizenship and communication skills are involved in community advocacy;
3. knowledge of body system functions includes anatomy; and
4. environmental science concepts are reinforced by the understanding of ecological systems.

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§305. Technology

A. Technology can enhance learning by improving both the efficiency and effectiveness of instructional time. The National Health Education Standards and Louisiana Health Education Content Standards expect students to demonstrate the ability to access health information. School districts are expected to provide for the utilization of information technologies in the delivery of health instruction.

B. Students will be required to make numerous health care decisions in their lifetimes and must do this in an environment in which they are bombarded with health information that may or may not be accurate. Comprehensive health education prepares students to use and evaluate information for accuracy from a variety of sources. This requires that students use technology to gather current, accurate information prior to making decisions and taking action. The use of technology to access information is an essential lifelong health literacy skill.

C. The careful, guided use of technology to enhance the effectiveness of health education can allow all students to access the most current information. Due to the abundance of information available, educators, administrators, and parents are encouraged to evaluate the quality of available information prior to presenting it to students.

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§307. Assessment

A. Standards involve statements about what students should know and be able to do. Included in this process is the construct of assessment. Health education assessment reflects the process of accumulating evidence about students' levels of competence in the area of health. Inferences can then be made based upon the evidence ascertained. The primary goal of assessment facilitates learning, rather than the documentation of learning. It is critical for health educators to assess individual performance. Such assessment should:

1. reflect health education content that is most important for students to learn, based upon the Louisiana Health Education Content Standards and Benchmarks;
2. enhance learning through a connection with instruction;
3. provide valid and reliable evidence of student performance; and
4. produce valid inferences about student learning specific to health education.

B. At a time in which greater demands are likely to be placed on assessment than any other time in United States education history, there continues to be escalating discomfort with traditional forms of assessment, including multiple-choice, true-false, matching machine-scored tests. With this in mind, assessment practices must support instruction of health education and student learning.

C. Alternative assessment can take many forms, such as portfolios, discussions and debates, event tasks, case studies, student logs, and role-playing. Such assessments can include:

1. tasks that directly examine the behavior the teacher wishes to measure;
2. criterion-referenced scoring;
3. assessment of higher levels of learning;
4. student participation in development of the assessment and ownership of the final product; and
5. assessment criteria that are given to students in advance.

D. *Rubrics* are the scoring criteria by which student performance is judged. They are used most often with alternative assessments such as portfolios, event tasks, and student performance but can actually be used for other types of assessment as well. They should be written by the health educator before instruction begins and shared with students as the unit or project is explained. Because students have the criteria early, they have a standard by which they can judge their own performance, thereby providing feedback during instruction.

E. The Louisiana State Health Education Standards focus on both alternative assessment options and traditional ones in order to forge a more complete picture of student learning. An assessment strategy that is balanced will best assess the objectives of the K–12 health education program.

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§309. Requirements

A. The Louisiana Department of Education in *Bulletin 741, Louisiana Handbook for School Administrators*, sets the hours required in health and physical education. These requirements are also found in Bulletins 1596 and 1597.

B. For grades 1-6, 150 minutes per week are required in health and physical education. (B 741:2.090.09)

C. In grades seven and eight, "health and physical education, elective, exploratory studies" is set at a minimum of 275 minutes per week for students on a six-period day option or 250 minutes per week for a seven-period day schedule. (B 741:2.090.09)

D. Grades 9 – 12. In order to graduate from high school, public school students must earn one-half unit in health education. (B 741:2.105.09) A minimum of 90 hours of health instruction shall be taught and cardiopulmonary resuscitation (CPR) must be taught during health education. (B 741:2.105.15) Nonpublic schools require two units of combined health and physical education for graduation. (B 741: 6.099.01)

E. R.S. 17:275 states that all public junior and senior high schools shall provide instruction to all female students in the proper procedure for breast self-examination and the need for an annual Pap test for cervical cancer. Such instruction may be provided in the context of courses in the study of health, physical education, or such other appropriate curriculum or instruction period as may be determined by the respective local school boards. This instruction may be taught by a school nurse, physician, or competent medical instructor. The local school boards shall adopt rules and regulations necessary for the implementation of this program of instruction. No student shall be required to take such instruction if his parent or tutor submits a written statement indicating that such instruction conflicts with the religious beliefs of the student.

F. In 2001, through Senate Bill No. 792, guidelines were established for the development of youth suicide prevention programs as required in R.S. 17:282.3. Some features of this bill include the involvement of the Department of Education in developing standards for these programs, classroom instruction integrated into the curriculum, and access to prevention services. Some of the instructional topics suggested for prevention in S.B. No. 792 are:

1. encourage sound decision-making and promote ethical development;
2. increase student awareness of the relationship between drug and alcohol use and suicide;
3. teach students to recognize signs of suicidal tendencies; and
4. inform students of the available community suicide prevention services.

G. The measures outlined in Subsection F.1 - 4 above easily fit within the health education curriculum that is based on these Health Education Content Standards.

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Chapter 5. Health Education Content Standards and Benchmarks

§501. Coding Key for Benchmarks

A. Standards are broad goals for student achievement in a content area. Each standard is followed by a set of benchmarks. The benchmarks state what a student should know and be able to do in order to reach the standard. The key in Paragraphs 1-3 of this Subsection A explain the coding used for the benchmarks contained in this document.

1. The first number indicates the standards number.
2. The capitol letter represents the cluster level.
3. The third symbol is a second number, which represent the benchmark number.
 - a. The letters for each grade cluster level are as follows:

E	represents the elementary cluster level, grades K - 4
M	represents the middle school cluster level, grades 5 - 8
H	represents the high school cluster level, grades 9 - 12
Example: 2-E-4 would represent benchmark four for standard two on the Elementary level (grades 3 - 5)	

B. The numbers in parentheses at the end of each benchmark are the numbers for the Louisiana Standards Foundation Skills found in §107.

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§503. Health Education Content Standards

A. The Louisiana Health Education Content Standards are composed of three components:

1. Health Education Content Standards;
2. rationale for each standard;
3. benchmarks (performance indicators) that describe what the student should know and be able to do to demonstrate mastery of the standard.

B. The National Health Education Content Standards vary from other content areas in that performance indicators are used as benchmarks. Louisiana benchmarks are intended to serve as a guide for organizing student assessment.

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§505. Standard 1

A. Students will comprehend concepts and strategies related to health promotion and disease prevention.

1. State Foundation Skills 1, 2, 3, 4
2. National Health Standard 1

B. Basic to health education is a foundation of knowledge about the interrelationship between behavior and health, the human body, and disease prevention. Comprehension of health-promotion strategies and disease prevention concepts will enable students to become health literate learners with a foundation for leading healthy and productive lives.

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§507. Standard 2

A. Students will demonstrate the ability to access and evaluate the validity of health information and health promoting products and services.

1. State Foundation Skills 1, 2, 5
2. National Health Standard 2

B. Critical thinking involves the ability to identify valid health information and to analyze, select and access health-promoting services and products. The development of critical thinking skills is a high priority in all disciplines for improving problem solving and decision-making abilities. Applying skills of information analysis, organization, comparison, synthesis and evaluation to health issues encourages students to become health literate and responsible citizens.

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§509. Standard 3

A. Students will demonstrate the ability to practice positive health behaviors and reduce health risks.

1. State Foundation Skills 2, 3
2. National Health Standard 3

B. Reducing harmful and risk-taking behaviors can prevent many diseases and injuries. Recognizing and practicing health-enhancing behaviors can contribute to a positive quality of life. Strategies to improve health behaviors will assist students in developing positive health behaviors as they engage in critical thought and problem solving. Goal setting and decision-making are integral to developing such strategies. By accepting responsibility for personal health, students have a foundation to develop a productive, healthy life.

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§511. Standard 4

A. Students will analyze the impact of the media, technology, economy, culture, and other factors on health through the use of technological resources.

1. State Foundation Skills 1, 3, 5
2. National Health Standard 4

B. Health is influenced by a variety of factors that co-exist within a society such as cultural context, media, and technology available. A competent problem solver can analyze, evaluate and interpret the influence of such factors on the health of the individual and community. Through analyzing influences, evaluating media messages, and recognizing the impact of technology students will develop into more effective and responsible individuals.

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§513. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

1. State Foundation Skills 1, 2, 3, 4
2. National Health Standard 5 and 6

B. Personal, family, and community health are enhanced through effective communication. Responsible individuals use communication skills in maintaining healthy relationships. The ability to organize and convey information, beliefs, opinions, and feelings are skills that strengthen interactions while reducing conflicts. These skills enable individuals to collaborate with others to improve the quality of life for their families and communities.

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§515. Standard 6

A. Students will demonstrate the ability to advocate personal, family, and community health.

1. State Foundation Skill 3 and 4
2. National Health Standard 7

B. Quality of life is dependent on an environment that protects and promotes the health of individuals, families, and communities. Advocating and communicating for improved health measures in their communities characterize responsible citizens. Individuals should develop a wide variety of advocacy skills such as persuasiveness, collaboration and effective communication techniques.

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Chapter 7. Grades K-4C Elementary Cluster Level

§701. Standard 1

A. Students will comprehend concepts and strategies related to health promotion and disease prevention.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

1-E-1	recognize basic body parts and describe the structure and function of the human body system;	(1,2,4)
1-E-2	demonstrate personal health habits that promote optimal health (i.e., good nutrition, brushing teeth, washing hands, exercise, etc.);	(1,2,3)
1-E-3	compare and contrast personal health behaviors and individual well being;	(1,2,4)
1-E-4	identify common childhood health problems/illnesses and the corresponding prevention and treatment;	(1,2,4)
1-E-5	explain how physical, social and emotional environments influence personal health.	(1,2,3,4)

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§703. Standard 2

A. Students will demonstrate the ability to access and evaluate the validity of health information and health promoting products and services.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

2-E-1	identify characteristics of valid health information and health-promoting products and services;	(2,3,4)
2-E-2	demonstrate the ability to locate resources from home, school and community that provide valid health information;	(1,2,3,4)
2-E-3	explain how media influences the selection of health information, products, and services; and	(4,5)
2-E-4	demonstrate the ability to locate school and community health resources.	(1,3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

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§705. Standard 3

A. Students will demonstrate the ability to practice positive health behaviors and reduce health risks.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

3-E-1	identify personal health needs;	(1,4)
3-E-2	demonstrate responsible personal health behaviors;	(2,4)
3-E-3	illustrate safety/injury prevention techniques related to daily activities;	(2,3,4)
3-E-4	demonstrate ways to avoid and reduce threatening situations; and	(2,3,4)
3-E-5	apply skills to manage stress.	(2,4)

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§707. Standard 4

A. Students will analyze the impact of the media, technology, economy, culture, and other factors on health through the use of technological resources.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

4-E-1	describe how culture influences personal health behaviors;	(1,2,4)
4-E-2	explain how media influences thoughts, feelings, and health behaviors;	(2,3,4)
4-E-3	demonstrate ways that home health care technology can influence personal health (blood glucose level monitors, blood pressure monitors, diet evaluation software, on-line medical sites, etc.); and	(2,3,4)
4-E-4	discuss how information from school and family influences health.	(1,2,3,4)

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§709. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

5-E-1	demonstrate healthy ways to communicate needs, wants, and feelings through verbal and non-verbal communication;	(1,2)
5-E-2	demonstrate ways to communicate care, consideration, and respect of self and others;	(1,2,5)
5-E-3	apply a decision-making process to address personal health issues and problems;	(1,2)
5-E-4	demonstrate refusal skills to enhance health;	(1,2)
5-E-5	demonstrate non-violent strategies to resolve conflicts; and	(1,2,4)
5-E-6	establish personal health goals and track progress toward its achievement.	(1,2,3,4)

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§711. Standard 6

A. Students will demonstrate the ability to advocate personal, family and community health.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

6-E-1	recognize basic job functions of community and school health service providers;	(1,4)
6-E-2	convey how to access appropriate health and crisis care services in emergency situations; and	(1,2,4)
6-E-3	demonstrate the ability to communicate information that promotes positive health choices.	(1,3,4,5)

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Chapter 9. Grades 5-8C Middle School Cluster Level §901. Standard 1

A. Students will comprehend concepts and strategies related to health promotion and disease prevention.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

1-M-1	describe relationships among physical, mental, emotional and social health;	(1,2,4)
1-M-2	evaluate healthy and unhealthy lifestyles (e.g., preventive health measures, physical fitness, nutrition, obesity, eating disorders, stress, etc.);	(1,2,3,4)
1-M-3	examine the structure and function of body systems and its relation to wellness;	(2,3,4)
1-M-4	analyze high risk behaviors to determine their impact on wellness (e.g., disease transmission, suicidal tendencies, substance use and abuse, etc.); and	(1,2,3,4)
1-M-5	determine factors that influence violence and strategies for avoiding unhealthy situations.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1947 (September 2002).

§903. Standard 2

A. Students will demonstrate the ability to access and evaluate the validity of health information and health-promoting products and services.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

2-M-1	locate valid health information using various sources (e.g., Internet, videos, print, television, etc.);	(2,3,4)
2-M-2	identify how media influences the selection of health information and products;	(1,3,4)
2-M-3	locate and evaluate functions of community health agencies and professional health services (e.g., hospitals, emergency care, substance abuse centers, volunteer organizations, etc.); and	(2,3,4)
2-M-4	examine the effectiveness of health products and services (e.g., sun blocks, cosmetics, over-the-counter medicines, etc.).	(2,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1947 (September 2002).

§905. Standard 3

A. Students will demonstrate the ability to practice positive health behaviors and reduce health risks.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

3-M-1	identify personal health needs and develop long-term goals for a healthy lifestyle;	(2,4)
3-M-2	examine physical fitness assessments and their role in developing a personal wellness program; and	(2,3,4)
3-M-3	develop injury prevention and management strategies for personal and family health.	(1,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1947 (September 2002).

§907. Standard 4

A. Students will analyze the impact of the media, technology, economy, culture, and other factors on health through the use of technological resources.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

4-M-1	investigate the quality of health care provided in other countries;	(4,5)
4-M-2	compare and contrast the health of different cultures, race and ethnicity;	(1,2,4,5)
4-M-3	investigate the impact of media (e.g., television, newspaper, billboards, magazines, Internet) on positive and negative health behaviors;	(1,3,5)
4-M-4	describe the ways that technology affects health (e.g., video games, computers, high-technological medical equipment, etc.); and	(1,3,4)
4-M-5	assess ways in which various media influence buying decisions (e.g., health products, medicines, food).	(1,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1947 (September 2002).

§909. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

5-M-1	demonstrate verbal and non-verbal skills to communicate care, self-control, and respect for all;	(1,2)
5-M-2	distinguish between positive and negative peer pressure and analyze the impact of peer pressure on decision-making;	(1,2,5)
5-M-3	demonstrate refusal and conflict resolution skills to develop and maintain healthy relationships with peers, family and others in socially acceptable ways;	(1,2,3,5)
5-M-4	demonstrate positive decision-making and problem-solving skills; and	(1,2)
5-M-5	develop strategies and skills for attaining personal health goals.	(1,2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1948 (September 2002).

§911. Standard 6

A. Students will demonstrate the ability to advocate personal, family, and community health.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

6-M-1	develop strategies to encourage and influence others in making positive health choices (e.g., healthy food choices, abstaining from alcohol, tobacco, and illegal drug use, etc.);	(1,2,4)
6-M-2	analyze various communication methods to accurately express health ideas and opinions;	(1,3)
6-M-3	identify barriers to effective communication about health issues; and	(2,3,4)
6-M-4	demonstrate the ability to work cooperatively when advocating for healthy individuals, families, and schools.	(1,5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1948 (September 2002).

Chapter 11. Grades 9-12C High School Cluster Level

§1101. Standard 1

A. The students will comprehend concepts and strategies related to health promotion and disease prevention.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

1-H-1	analyze the impact of behavior on health maintenance and disease prevention;	(1,2,3,4,5)
1-H-2	identify the causes, symptoms, treatment and prevention of various diseases and disorders (e.g., cardiovascular diseases, STDs, eating disorders);	(2,3,4)
1-H-3	describe interrelationship(s) of mental, emotional, social, and physical health throughout the life span;	(1,2,4)
1-H-4	explain the impact of personal health behaviors on the functioning of body systems;	(2,3,4)
1-H-5	describe the influence of family, peers, and community on the health of individuals; and	(1,2,4)
1-H-6	evaluate environmental influences on the health of individuals in their home, community, and world.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1948 (September 2002).

§1103. Standard 2

A. The students will demonstrate the ability to access and evaluate the validity of health information and health-promoting products and services.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

2-H-1	evaluate the validity of health information, products, and services using a variety of resources;	(2,3,4)
2-H-2	identify factors that influence personal selection of health products and services;	(2,3)
2-H-3	identify school and community health services available for self and others;	(1,3,5)
2-H-4	analyze the cost and accessibility of health care products and services; and	(2,3,4)
2-H-5	examine mental, social, and physical conditions requiring professional health services (e.g., obesity, eating disorders, suicidal tendencies, depression, drug/alcohol abuse, diabetes, heart attack, burns, etc.).	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1948 (September 2002).

§1105. Standard 3

A. The students will demonstrate the ability to practice positive health behaviors and reduce health risks.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

3-H-1	describe the role of individual responsibility for enhancing health by analyzing the short-term and long-term consequences of behaviors throughout the life span (safe, high-risk, and harmful behaviors);	(2,3)
3-H-2	demonstrate the ability to use critical thinking when making decisions related to health needs and risks of young adults;	(2,3)

3-H-3	evaluate a personal health survey to determine strategies for health enhancement and risk reduction;	(2,3,4)
3-H-4	develop strategies to improve or maintain health and safety on personal, family, community, and world levels;	(1,2,3)
3-H-5	demonstrate ways to reduce threatening situations to avoid violence; and	(1,2,5)
3-H-6	design strategies to manage stress.	(2,3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1948 (September 2002).

§1107. Standard 4

A. Students will analyze the influence of the media, technology, economy, culture and other factors on health through the use of technological resources.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

4-H-1	investigate how cultural diversity and economy enrich and challenge health behaviors;	(2,3,4)
4-H-2	evaluate the impact of technology and media on personal, family, community, and world health; and	(1,2,3,4)
4-H-3	explain how information from peers, family and community influence health.	(1,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1949 (September 2002).

§1109. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

5-H-1	demonstrate effective communication skills and identify the impact of communication on relationships with family, peers, and others;	(1,2,4)
5-H-2	demonstrate positive, effective methods of expressing needs, wants, feelings, care, consideration, and respect for self and others;	(1,2,5)
5-H-3	identify strategies for solving intrapersonal and interpersonal conflicts without harming self or others;	(1,2,5)
5-H-4	identify the possible causes of conflict in schools, families, and communities;	(1,2,5)
5-H-5	plan and demonstrate refusal, negotiation, and collaboration skills to avoid potentially harmful situations;	(1,2,5)
5-H-6	identify personal goals for improving or maintaining lifelong personal health; and	(3,4)
5-H-7	formulate a plan and evaluate the progress for attaining personal health goals.	(2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1949 (September 2002).

§1111. Standard 6

A. Students will demonstrate the ability to advocate personal, family, and community health.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

6-H-1	predict immediate and long-term impact of health decisions on the individual, family and community;	(2,3,4)
6-H-2	effectively communicate concerns and information about immediate and/or long-term impact of health decisions in order to influence others;	(3,4)
6-H-3	identify effective strategies to overcome barriers when communicating information, ideas, feelings, and opinions about health issues (refusal skill, assertiveness, problem-solving, communication skills);	(1,2,3,4,5)
6-H-4	demonstrate techniques that influence and support others in making positive health choices (positive peer pressure); and	(1,3,4)
6-H-5	demonstrate the ability to work cooperatively when advocating for healthy communities and environments.	(1,5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1949 (September 2002).

Weegie Peabody
Executive Director

0209#021

RULE

Board of Elementary and Secondary Education

Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation (LAC 28:XLIX.101, 349, 2523, 2911, 3307, 3309, 3313, and Chapter 34)

Editor's Note: Section 3410 is being repromulgated to correct a citation error. The original Rule may be viewed in its entirety on pages 1737-1740 of the August 20, 2002 edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has revised §§101, 349, 2523, 2911, 3307, 3309, 3313, and Chapter 34 of Bulletin 1196, *Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. These revisions to Bulletin 1196: 1. incorporate the major Federal and State policy changes as a result of the Federal revision of the Child and Adult Care Food Program Financial Management Instruction 796-2, Revision 3, effective May 14, 2001; 2. add audit requirements in the Bulletin for the Summer Food Service Program and the Child and Adult Care Food Program (omitted through oversight); 3. strengthen Louisiana Department of Education (LDE)

administrative procedures for compliance with federal audit requirements; and 4. transfer the Child Nutrition Program Appeals Procedures from LAC 28:I.943, where initially adopted, to Part XLIX, Chapter 34 of the LAC.

Title 28

EDUCATION

Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation

§3410. Notice and Time of Hearing

A. If a hearing is requested, the hearing officer shall schedule a hearing to be held within 90 calendar days from the date of receipt of the Request for Appeal by the designated agency. The hearing officer shall notify the institution in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), repromulgated LR 28:1950 (September 2002).

Weegie Peabody
Executive Director

0209#012

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs (LAC 28:IV.Chapter 15)

Editor's Note: The following Rule repeals Chapter 15 in its entirety. The T.H. Harris Scholarship is no longer in existence due to lack of funding.

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to repeal Chapter 15, T.H. Harris Scholarship of LAC 28:IV.

Title 28

EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs

Chapter 15. T.H. Harris Scholarship

§1501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:1861 (November 2001), repealed LR 28:1950 (September 2002).

§1503. Maintaining Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998),

repromulgated LR 27:1862 (November 2001), repealed LR 28:1950 (September 2002).

George Badge Eldredge
General Counsel

0209#027

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Definition of Major Source (LAC 33:III.502)(AQ227)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.502 (Log #AQ227).

The revised definition of "major source" in LAC 33:III.502 removes the provisions that Louisiana must require that sources in categories subject to standards under Section 111 or 112 of the Clean Air Act (Act), which were promulgated after August 7, 1980, include fugitive emissions in determining major source status under Section 302 or Part D of Title I of the Act. It also removes the phrase "but only with respect to those pollutants that have been regulated for that category," which previously existed in the definition of "major source." On November 27, 2001, the Environmental Protection Agency (EPA) promulgated revisions to its definition of "major source" in 40 CFR 70.2. These changes are effective November 27, 2001. As provided at 66 FR 59162 and at 40 CFR 70.4(i)(1), states whose program includes the language "but only with respect to those pollutants that have been regulated for that category" must revise and submit their program revisions by November 27, 2002. The basis and rationale for this Rule are to be consistent with the federal regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§502. Definitions

A. - A. Major Source. b.i. ...

ii. for all other stationary source categories, which as of August 7, 1980, are being regulated by a standard promulgated under Section 111 (NSPS) or 112 (Hazardous Air Pollutants) of the Clean Air Act.

A. Major Source. c. - A. Title I Modification. d. ...

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 19:1420 (November 1993),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002)

James H. Brent, Ph.D.
Assistant Secretary

0209#028

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Radiation Protection
(LAC 33:XV.455, 573, 575, 577, 587,
588, 590, 605, 1329, and 2013)(RP030)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.455, 573, 575, 577, 587, 588, 590, 605, 1329, and 2013 (Log #RP030).

This Rule makes amendments to clarify the Radiation Protection regulations in LAC 33:XV.Chapters 4, 5, 6, 13, and 20. Amendments to Chapters 4 and 13 correct references. Amendments to Chapter 5 clarify the minimum number of qualified or approved crew present when performing industrial radiographic operations, require annual refresher safety training of all radiographers and radiographer assistants and trainees, require all crew members to wear personal monitoring devices and designate when personal monitoring devices must be replaced, require that a physical radiation survey be performed on radiation machines or sealed sources immediately upon exposure, and require maintenance of records of daily checks of equipment. Amendments to Chapter 6 correct an error concerning a unit of measure for exposure rates. Chapter 20 is amended to require that calibrated operable radiation survey equipment is maintained at a temporary job site. The basis and rationale for this Rule are to clarify the Radiation Protection Regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 4. Standards for Protection Against Radiation

Subchapter G. Precautionary Procedures

§455. Procedures for Receiving and Opening Packages

A. - D. ...

1. removable radioactive surface contamination exceeds the limits of LAC 33:XV.1512.B.9; or

2. external radiation levels exceed the limits of LAC 33:XV.1512.B.10.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 28:1951 (September 2002).

**Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations
Subchapter B. Personal Radiation Safety Requirements for Radiographers**

§573. Conducting Industrial Radiographic Operations

A. Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or, if the radiographer is a qualified instructor, a qualified radiographer trainee or assistant, as required by Subsection D of this Section. The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

B. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:1234 (August 2001), amended LR 28:1951 (September 2002).

§575. Training and Testing

A. - C. ...

D. The licensee or registrant shall provide annual refresher safety training to all radiographers, radiographer assistants, and radiographer trainees at intervals not to exceed 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002).

§577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, radiographer assistant, or radiographer trainee unless, at all times during radiographic operations, each such individual wears a direct-reading pocket dosimeter, an alarm ratemeter, and either a film badge, an optically-stimulated luminescence dosimeter (OSL), or a thermoluminescent dosimeter (TLD), except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required.

B. ...

C. Each film badge, TLD, or OSL shall be assigned to and worn by only one individual. Film badges, TLDs, and OSLs must be replaced at periods not to exceed one month.

After replacement, each film badge, OSL, or TLD must be processed as soon as possible.

D. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002).

Subchapter C. Precautionary Procedures in Radiographic Operations

§587. Radiation Surveys and Survey Records

A. ...

B. A physical radiation survey shall be made after each radiographic exposure utilizing radiation machines or sealed sources to determine that the machine is "off" or that the sealed source has been returned to its shielded position immediately upon completion of exposure. The entire circumference or perimeter of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall also include the entire length of the guide tube.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1236 (August 2001), LR 28:1952 (September 2002).

§588. Documents and Records Required at Temporary Job Sites and Applicable Field Stations

A. - A.7. ...

8. records of daily checks of equipment as required in LAC 33:XV.547;

A.9. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000), LR 27:1236 (August 2001), LR 28:1952 (September 2002).

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

A. - D.2. ...

3. the radiographer's direct observation of the assistant's or trainee's performance of the operations referred to in this Section.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1237 (August 2001), LR 28:1952 (September 2002).

Chapter 6. X-rays in the Healing Arts

§605. Fluoroscopic X-ray Systems

A. - A.3.a.i.(a). ...

(b). when an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 roentgens (1.29 mC/kg) per minute at the point where the center of the useful beam enters the patient, unless high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed; or

(c). when optional high level control is provided on equipment manufactured after May 19, 1995. When so provided, the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 10 roentgens (2.58 mC/kg) per minute at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level control shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator and the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 20 roentgens (5.16 mC/kg) per minute at the point where the useful beam enters the patient. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

A.3.a.ii. - A.10.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2270 (October 2000), LR 26:2586 (November 2000), LR 28:1952 (September 2002).

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter C. Technical Requirements for Land Disposal Facilities

§1329. Requirements for Waste Classification and Characteristics

A. Refer to LAC 33:XV.Chapter 4, Appendix E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1952 (September 2002).

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies, LR 28:1952 (September 2002).

§2013. Radiation Survey Instruments

A. The licensee or registrant shall maintain sufficient calibrated operable radiation survey instruments at each field station and temporary job site to make physical radiation

surveys as required by this Chapter and by LAC 33:XV.426 and 430. Instrumentation shall be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 26:2771 (December 2000), LR 28:1952 (September 2002).

James H. Brent, Ph.D.
Assistant Secretary

0209#029

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Waste Tires C Fraudulent Takings
(LAC 33:VII.10505,10519, 10525, and 10537) (SW033)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.10505, 10519, 10525, and 10537 (Log #SW033).

Act 134 of the 2002 Extraordinary Session of the Legislature added language to the Environmental Quality Act, at R.S. 30:2418.M, to require penalties for "fraudulent takings" in the Waste Tire Program. This Rule adds definitions and provides descriptions of and penalties for fraudulent takings. Fraudulent takings refers to the value gained from processing waste tires that are not eligible for the Waste Tire Program. Waste tires are coming from out-of-state into the Waste Tire Program. No fees are collected on these tires, but they enter the system and make their way to waste tire processors who are paid for the processing and marketing of these out-of-state tires. This Rule places the new wording from the Act into the Solid Waste Regulations to make it conspicuous to departmental staff and the regulated community, who are accustomed to referring to the department's regulations for waste tire requirements. The basis and rationale for this Rule are to protect the Waste Tire Management Fund from fraudulent payments.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY

Part VII. Solid Waste Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Fraudulent Taking C the value gained from acts committed by an offender in violation of LAC 33:VII.10537.E

Program Eligible Waste Tires C those waste tires generated within Louisiana.

Waste Tire Generation C the replacement of an unserviceable tire with a serviceable tire. The sorting, collection, exchange, trade, or transportation of waste tires is not waste tire generation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002).

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - I.2. ...

3. no more than 150 tires shall be stored at the generator's place of business at one time, unless stored in a transportable collection container.

J. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002).

§10525. Standards and Responsibilities of Waste Tire Processors

A. Upon receiving a shipment containing waste tires, the processor shall be responsible for verifying the number of waste tires in each shipment by actually counting each waste tire or weighing the shipment to determine passenger tire equivalents. The processor shall sign each waste tire manifest upon receiving waste tires.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR:22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:1953 (September 2002).

§10537. Enforcement

A. - D. ...

E. Fraudulent Takings

1. No person shall, with the intent to defraud, prepare, submit, tender, sign, make an entry upon, or certify any invoice, report, manifest, request for payment, claim, or other document in connection with the origin, transportation, storage, transfer, assignment, sale, or disposal of waste tires as defined by LAC 33:VII.10505.

2. Penalties for a violation of Paragraph E.1 of this Section shall be based on the value of the fraudulent taking. When the fraudulent taking results from a number of distinct acts by the offender, the aggregate amount of the payments, subsidies, credits, other disbursements, or things of value obtained shall determine the grade of the offense. Penalties shall be as follows.

a. If the fraudulent taking amounts to a value of \$500 or more, the offender shall be imprisoned, with or without hard labor, for not more than 10 years, or may be fined not more than \$3,000, or both.

b. When the fraudulent taking amounts to a value of \$300 or more, but less than \$500, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than \$2,000, or both.

c. When the fraudulent taking amounts to less than \$300, the offender shall be imprisoned for not more than six months, or may be fined not more than \$500, or both. However, if such a conviction is the offender's third or subsequent conviction for violation of this Subsection, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than \$2,000, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:1954 (September 2002).

James H. Brent, Ph.D.
Assistant Secretary

0209#030

RULE

**Office of the Governor
Division of Administration
Office of Information Technology**

Information Technology
(LAC 4:XV.101, 301, 303, 501 and 503)

Editor's Note: This Rule is being repromulgated to correct a citation error. The original Rule may be viewed on pages 1583-1584 of the July 20, 2002 edition of the *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and in order to comply with the legislative mandate of Act 772 of the 2001 Regular Session of the Louisiana Legislature, the Office of the Governor, Division of Administration, Office of Information Technology (OIT), has promulgated Rules and Regulations relative to information technology initiatives.

Title 4

ADMINISTRATION

Part XV. Information Technology

Chapter 1. General Provisions

§101. General

A. Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 39:15.1-6 in Act 772 of the 2001 Regular Session, the Chief Information Officer (CIO) and the Office of Information Technology (OIT) was established to manage and direct the following information technology initiatives:

1. overseeing and implementing a state master information technology plan;
2. establishing/directing the implementation of IT standards, architecture, and guidelines for hardware and software systems, contractual arrangements, consolidation of services, and system management;
3. reviewing, coordinating, and standardizing IT planning, procurement, and budgeting;
4. implementing strategic IT planning, review, and operation;
5. measuring and assessing the performance of IT systems, including the creation of benchmarks and the establishment of accountability;
6. overseeing/coordinating the centralization of technology, including consolidation, outsourcing, and sharing statewide government IT resources and services;
7. assuring compatibility and connectivity of Louisiana's information systems;
8. facilitating and fostering innovative emerging technologies that provide cost-effective solutions for government operation;
9. reviewing/overseeing IT projects and systems for compliance with statewide strategies, goals, and standards;

10. ensuring that statewide IT applications are not duplicated by individual state agencies in the executive branch;

11. facilitating/fostering the identification of state data policy and planning needs; and

12. charging respective user agencies for the cost of IT services provided by OIT.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1954 (September 2002).

Chapter 3. State Agencies Responsibilities

§301. General

A. All agencies under the authority of Act 772 must comply with the policies and guidelines promulgated by the Office of Information Technology.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

§303. Information Technology Coordination

A. All departments shall designate one representative to serve as the Information Technology Coordinator, unless otherwise approved by the CIO. The Information Technology Coordinator shall be recognized by the Office of Information Technology as the agency's authorized representative for coordinating with OIT.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

Chapter 5. Policy and Guidelines

§501. General

A. It is the intent of the Office of Information Technology to develop formal IT policies, standards and guidelines relative to information technology activities including but not limited to the following:

1. implementing of IT standards for hardware, software, and consolidation of services;

2. reviewing and coordinating IT planning, procurement, and budgeting;

3. providing oversight for centralization/consolidation of technology initiatives and the sharing of IT resources;

4. assuring compatibility and connectivity of Louisiana's information systems;

5. providing oversight on IT projects and systems for compliance with statewide strategies, goals, and standards.

B. The policies, standards and guidelines of the Office of Information Technology will be promulgated via Information Technology Bulletins.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

§503. Policy Distribution

A. The official method of publishing/distributing OIT policies, standards and guidelines will be via the OIT website at: www.doa.state.la.us/oit.

B. Other electronic delivery systems will be utilized as appropriate to notify agencies of adopted policies and guidelines.

AUTHORITY NOTE: Promulgated in accordance with Act 772 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Information Technology, LR 28:1583 (July 2002), repromulgated LR 28:1955 (September 2002).

Chad McGee
Chief Information Officer

0209#008

RULE

Department of Health and Hospitals Board of Certification for Substance Abuse Counselors

Certification; Practice; Organization; Fees; Examination; Continuing Education; Impaired Professionals Program; Ethics; Registrations; Board Approved Programs; Investigations and Disciplinary Procedures; Supervision and Miscellaneous Provisions (LAC 46:LXXX.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17 and 19)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Certification for Substance Abuse Counselors (Board), pursuant to the authority vested in the board by R.S. 37:3374 amends its existing Rules as set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXX. Board of Certification for Substance Abuse Counselors

Chapter 1. General Provisions

§101. Scope

A. The rules of this Part are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the Board) within the Department of Health and Hospitals, the certification for substance abuse counselors, compulsive gambling counselor, and prevention specialists and the practice of substance abuse counseling, compulsive gambling, and primary prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989); amended LR 19:627, (May 1993), IR 25:1241 (July 1999), LR 28:1955 (September 2002).

§105. Definitions

A. As used in these rules, the following terms shall have the meanings specified:

* * *

Board Approved Clinical Training Program Any clinical setting involving substance abuse or compulsive

gambling treatment, substance abuse or compulsive gambling counseling services or prevention intervention services which has applied for, received, and maintained approval by the board. The board shall provide for institutions to register as being board approved for clinical training in substance abuse counseling, compulsive gambling counseling, and prevention.

Board Approved Educational Program Any course, workshop, seminar, conference or other educational program presented by an organization which has applied for, received, and maintained approval by the board. The board shall provide for organizations to register as being board approved as an education provider in the field of substance abuse counseling, compulsive gambling counseling, and prevention.

Board Approved Institution of Higher Education Any college or university accredited by a recognized regional accrediting body which has applied for, received, and maintained approval of the board. The board shall provide for institutions of higher education to register as being board approved for higher education in substance abuse counseling, compulsive gambling counseling, and prevention.

Core Functions the screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, reports and record keeping activities associated with substance abuse and compulsive gambling counseling, and consultation with credentialed professionals.

Counselor in Training or Prevention Specialist in Training Any person who has not yet met the qualifications to become certified in a particular field but has made an application to be certified in a particular field prescribed in R.S. 37:3376 and is registered as such by the board.

Direct Supervision of a counselor in training or prevention specialist in training by a registered counselor supervisor or qualified professional supervisor means responsible, continuous, on-the-premises observation whereby the board approved supervisor is personally present in the servicing facility and immediately available to the service area. Direct supervision may include treatment team or staffing meetings, observation in group, individual, family, education or other, private conversations (one to one) discussing cases of functions or review of chart or medical records. A registered counselor supervisor or qualified professional supervisor providing direct supervision shall be ultimately responsible for the acts or omissions of the counselor in training or prevention specialist in training he is supervising.

Performance Domains for prevention specialists are:

- a. education and skill development;
- b. community organization;
- c. public and organization policy;
- d. planning and evaluation; and
- e. professional growth and responsibility.

Prevention Counselor Repealed. (Term has been changed to *prevention specialist*.)

Prevention Specialist—(formerly *prevention counselor*) any person who, by means of his special knowledge acquired through formal education and practical experience,

is qualified to provide prevention intervention services that utilize the performance domains specific to prevention and is certified as such by the board. The board shall consider any person providing such services as purporting to be a prevention specialist.

Qualified Professional Supervisor a substance abuse counselor who has been certified and has worked in a licensed or board approved substance abuse treatment program for a minimum of two years; or a compulsive gambling counselor or prevention specialist who has been certified and has worked in a licensed or board approved treatment program in his area of certification for a minimum of two years; or a credentialed professional such as a board certified social worker, licensed psychologist, or licensed physician; or any other professional recognized as a trainer by the board upon presentation of verification and documentation of expertise, such as a registered counselor supervisor.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:628 (May 1993), LR 25:1241 (July 1999), LR 28:1955 (September 2002).

Chapter 3. Practice

§301. Scope of Practice

A. - B. ...

C. The practice of prevention within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to those at risk of alcohol, tobacco and other drugs and to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of abuse and no longer in need of prevention intervention services. The scope of the practice shall include making appropriate referrals to qualified professionals and utilizing the performance domains of prevention.

D. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor, compulsive gambling counselor, or prevention specialist to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse or compulsive gambling, or for prevention. A substance abuse counselor, compulsive gambling counselor, or prevention specialist shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 25:1241 (July 1999), LR 28:1956 (September 2002).

§303. Minimum Standards of Practice

A. The minimum standard of practice will be met if:

1. the counselor or specialist is certified and in good standing with the board;
2. the counselor or specialist adheres to the code of ethics as set forth in these rules; and
3. the counselor or specialist practices within the scope of practice defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 28:1956 (September 2002).

Chapter 5. Fees and Board Documents

§501. Fees

A. - C. ...

D. In accordance with R.S. 37:3377.A of the Substance Abuse Counselor Certification Act the fee schedule shall be as follows:

Application	\$100
Initial Certification	\$200
Certification by Reciprocity from Another State	\$200
Renewal of Certification	\$200
Late Fee for Renewal of Certification	\$150
Reinstatement of Certification	\$200
Appeal/Evaluation of Exam Decision	\$150
Registration as Counselor in Training or Prevention Specialist in Training	\$ 75
Renewal of Registration as Counselor in Training or Prevention Specialist in Training	\$ 75
Registration as Registered Counselor Supervisor	\$150
Renewal of Registration as Registered Counselor Supervisor	\$150
Registration as Approved Training Institution	\$200
Renewal of Registration as Approved Training Institution	\$200
Registration as Approved Education Provider	\$200
Renewal of Registration as Approved Education Provider	\$200
Registration for Approved Educational Provider Single Course	\$ 60
Registration as Approved Institution of Higher Education	\$200
Renewal of Registration as Approved Institution of Higher Education	\$200
Late Fee for Renewal of Any Registration	\$150

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 28:1957 (September 2002).

§503. Board Documents

A. Official Records

1. Official records of the board shall be maintained at the office of the board or other depository authorized by the board.

2. All official records of the board including application materials, except materials containing information considered confidential, shall be open for inspection during regular office hours.

3. Any person desiring to examine official records shall be required to properly identify himself and sign statements listing the records questioned and examined. Records which are stored in historical files or which have been authorized for off site storage may require a fee for research and location.

4. Official records shall not be taken from the board's office. Persons may obtain copies of records upon written request and by paying a fee prescribed by the board.

B. Certificate

1. The board shall prepare and provide to each certified counselor or specialist a certificate which lists the

counselor's or specialist's name, date of initial certification, and certification number.

2. Original certificates shall not be issued until the application has been evaluated and approved by official action of the board. The board may set the effective date and expiration date of the certificate at the time of approval.

3. Replacement certificates shall be issued when the required request has been received and fee paid. Replacement certificates shall contain the same information as the original certificate.

4. Official certificates shall be signed by the chairman, vice chairman, and secretary-treasurer, and be affixed with the official seal of the State of Louisiana. Certificates shall be signed by officers who are serving at the time the certificate is issued.

5. Currency of the certificate shall be documented by a wallet card issued by the board with the date of certification or renewal and the date of expiration.

C. Roster and Mailing Lists

1. Each year the board shall make available a roster of Board Certified Substance Abuse Counselors, Board Certified Compulsive Gambling Counselors, and Board Certified Prevention Specialists.

2. The roster shall include, but not be limited to, the name, address, and telephone number of each counselor or specialist. It is the counselor's or specialist's responsibility to keep the board informed of changes of address or other information.

3. The board shall make copies of the roster available to counselors, specialist's, interested agencies, and the general public upon request and at a cost prescribed by the board.

4. The use of mailing lists may be obtained from the board by submitting the prescribed fee with a written request, including delivery instructions, to the office of the board.

5. Rosters and mailing lists are the property of the board and shall not be distributed nor used by any party other than that which initially obtained a copy.

D. Notice and Receipt

1. Notices and communications are official when signed by a member of the board or other person so designated and mailed to the address of record.

2. The receipt of applications, forms, notices, and other communications by the board shall be determined by the date when received in the office of the board.

3. The board shall not be responsible for delay in delivery.

E. - R.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 28:1957 (September 2002).

Chapter 7. Certification

§701. Requirements

A. - A.1. ...

2. is a legal resident of the United States;

3. ...

4. is not and has not been a compulsive gambler or an abuser of alcohol or other drugs during the previous two years;

5. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony. However, the board in its discretion may waive this requirement upon review of the individual's circumstances;

6. provides evidence of having earned educational credit sufficient to satisfy the requirements for substance abuse counselor certification and of having successfully completed the experiential requirements for substance abuse counselor certification as prescribed by the board which include:

a. has successfully completed a minimum of 30 semester hours of substance abuse courses with a minimum of 12 semester hours of substance abuse courses from an accredited and board approved institution of higher education and the remainder, up to 18 equivalent hours, granted by a board approved institution of higher education or other board approved educational program at the rate of 15 contact hours per one semester hour;

b. possesses a master's degree from an accredited institution of higher education in human sciences approved by the board which includes, but is not limited to, one of the following areas: nursing, criminal justice, social work, social welfare, sociology, substance abuse, psychology, mental health, counseling, education counseling, or family, child, and consumer science, and provides evidence of having successfully completed one-year of full-time clinical training in board-approved institutions in the actual performance of each of the core functions with substance abuse clients while under the supervision of a qualified professional, including direct supervision in each of the 12 core functions, with a minimum of one contact hour per week; or

c. possesses a bachelor's degree from an accredited institution of higher education in human sciences approved by the board which includes, but is not limited to, one of the following areas: nursing, criminal justice, social work, social welfare, sociology, substance abuse, psychology, mental health counseling, education counseling or family, child and consumer science, and provides evidence of having successfully completed two years of full-time clinical training in board-approved institutions in the actual performance of each of the core functions with substance abuse clients while under the supervision of a qualified professional, including direct supervision in each of the 12 core functions, with a minimum of one contact hour per week;

d. possesses a bachelor's degree in a field other than human sciences, as well as provides evidence of having successfully completed three years of full-time clinical training in board-approved institutions in the actual performance of each of the core functions with substance abuse clients while under the supervision of a qualified professional, including direct supervision in each of the 12 core functions, with a minimum of one contact hour per week;

7. demonstrates professional competency in substance abuse counseling by passing a written and oral examination prescribed by the board;

8. makes application and pays the fees prescribed by the board;

9. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to

develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling;

10. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling; and

11. credit received for practicum, internship or other experiential education may be claimed for education or experience, but not both.

12. - 13. Repealed.

B. Certification as a Counselor by Reciprocity from Other States. The board may issue a certificate, without examination in this state, to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application and examination;

2. possesses a valid certificate to practice as a substance abuse counselor in any other state of the United States;

3. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of Subsection A of this Section.

C. Initial Compulsive Gambling Counselor Certification. The board shall issue a certification as a board certified compulsive gambling counselor to each candidate who:

1. is at least 21 years of age and has earned a high school diploma or its equivalent;

2. is a legal resident of the United States;

3. is not in violation of any ethical standards subscribed to by the board;

4. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two years;

5. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony. However, the board in its discretion may waive this requirement upon review of the individual's circumstance;

6. possesses and maintains a board certification for substance abuse counseling;

7. successfully completes 30 clock hours of gambling addiction courses from a board-certified education program;

8. demonstrates professional competency in gambling counseling by passing a written and oral examination prescribed by the board;

9. makes application and pays the fees prescribed by the board;

10. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling;

11. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling; and

12. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

D. Initial Prevention Specialist Certification. The board shall issue a certification as a Board Certified Prevention Specialist to each candidate who:

1. is at least 21 years of age and has earned a high school diploma or its equivalent;
2. is a legal resident of the United States;
3. is not in violation of any ethical standards subscribed to by the board;
4. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two years;
5. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony. However, the board in its discretion may waive this requirement upon review of the individual's circumstance;
6. successfully completes 30 semester hours of prevention related courses approved by the board. Equivalency may be met by board-approved educational programs at the rate of 15 contact hours per one semester hour;
7. possesses a bachelor's degree from an accredited institution of higher education approved by the board in one of the following areas: nursing, criminal justice, business, social work, social welfare, sociology, substance abuse, psychology, mental health counseling, education, education counseling or family, child and consumer science;
8. completes experiential requirements prescribed by the board, including the following: two years of full-time prevention experience in board-approved institutions related to alcohol, tobacco and other drugs; 120 clock hours in the performance domains, with a minimum of 10 hours in each performance domain while under the supervision of a qualified professional, with a minimum of one contact hour per week. The performance domains are: program coordination, education and training, community organization, public policy, planning and evaluation and professional responsibility;
9. demonstrates professional competency in primary prevention by successfully passing a written examination prescribed by the board;
10. makes application and pays the fees prescribed by the board;
11. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in primary prevention;
12. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in primary prevention; and
13. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

E. Certification as a Prevention Specialist by Reciprocity from Other States. The board may issue a certificate, without examination in this state, to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application examination;

2. possesses a valid certificate to practice as a prevention specialist in any other state of the United States;

3. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of Subsection D of this Section.

F. - H1.c. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1076 (December 1989), amended LR 19:631 (May 1993), LR 25:1241 (July 1999), LR 28:1957 (September 2002).

§703. Application and Examination

A. Request for Application

1. Persons desiring information regarding certification as a board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention specialist shall be sent an information brochure and a request for application form.

2. - 3. ...

4. An applicant shall have six months from the date issued to complete the application package and return it to the board. The application package shall expire one year from the date it is issued. However, if an applicant for certification as a substance abuse counselor or compulsive gambling counselor has successfully passed either the written or oral examination, the application period will be extended to the next consecutive examination date to allow the applicant a second test opportunity for the failed examination. Any applicant with an expired or void application package must re-apply and must re-take all portions of the examination for certification.

B. - B.3.f. ...

- g. official transcripts from a college or university;

B.4 - C.3 ...

4. Upon notification that the application is acceptable, the applicant becomes a candidate for certification.

- a. Candidates requiring examination are then eligible to request the examinations required for the field for which they are seeking certification.

- b. ...

D. Examination

1. Candidates must request examination by submitting the required form, including a written case if required to take an oral examination, selecting an examination date 30 days in advance, and paying the examination fee set by the board.

2. The board shall determine the scope and administration of the examination to provide the opportunity for the candidate to demonstrate competency in the field for which he seeks certification.

3. - 5. ...

6. The application of a candidate for certification as a substance abuse counselor or compulsive gambling counselor who fails both parts of the examination, or the application of a candidate for certification as a prevention specialist who fails the written examination, becomes void. The candidate must re-apply and pay all applicable fees.

7. A candidate for certification as a substance abuse counselor or compulsive gambling counselor who fails either part of the examination may:

a. continue in the process as long as his application is valid, however, if the candidate has successfully passed either the written or oral examination, the application period will be extended to the next consecutive examination date to allow the candidate a second test opportunity;

b. re-take the failed part of the examination by submitting the required form, including a written case for an oral re-test, selecting a new examination date 30 days in advance, and paying the examination fee set by the board.

8. If requested in writing, the board shall provide the candidate who fails any examination, upon payment of the board's prescribed fee, an evaluation of that candidate's test performance within a reasonable time period. Within five days of the receipt of the written request and fee, the board shall notify in writing the testing authority, or its agent, of the request for the evaluation of the failed examination. Within 30 days of receipt of such written notification, the testing authority, or its agent, shall provide to the board its written evaluation in response to the candidate's request.

D.9 - E.1. ...

2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the Certification Committee. The board shall issue certification as a BCSAC, BCCGC or BCPS to the candidate upon formal affirmative vote of the majority of the board present and voting provided there is a quorum present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1076 (December 1989), amended LR 19:632 (May 1993), LR 25:1243 (July 1999); LR 28:1959 (September 2002).

§705. Renewal

A. - C.1. ...

2. Applications for renewal which do not satisfy the requirements will be deficient. The counselor or specialist will be notified and allowed to correct the deficiency. It is the counselor's or specialist's responsibility to correct the deficiency prior to the expiration date of his certification.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1077 (December 1989), amended LR 19:632 (May 1993), LR 28:1960 (September 2002).

§707. Continuing Professional Education

A. Within the two years prior to application for certification renewal, all Board Certified Substance Abuse Counselors, Board Certified Compulsive Gambling Counselors, and Board Certified Prevention Specialists must have completed at least 48 clock hours of education directly applicable to substance abuse counseling, compulsive gambling counseling or prevention whichever is applicable.

B. - C.1. ...

2. client education approaches for problems of chemical dependency or compulsive gambling;

3. ...

4. chemical dependency or compulsive gambling counseling techniques including individual and group psychodynamics;

5. ...

6. chemical dependency or compulsive gambling crisis intervention skills;

7. awareness of special population needs in reference to substance abuse or compulsive gambling;

8. ...

9. basic pharmacologic knowledge and an understanding of the chemical dependency or compulsive gambling disease concept;

10. - 11. ...

12. related medical and psychological disorders that may require referral; and

13. skills in the performance domains of prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1077 (December 1989), amended LR 19:634 (May 1993), LR 25:1243 (July 1999), LR 28:1960 (September 2002).

§711. Lapsed Certificate; Reinstatement; Surrender

A. Lapsed Certificate. Certification is lapsed immediately upon passing 90 days after the expiration date. Lapsed certificates shall be surrendered to the board for non-payment of fees, or reinstated, upon meeting the reinstatement requirements. A lapsed certificate terminates immediately the status of a registered counselor supervisor unless and until reinstatement is granted by the board.

B. - B.4. ...

5. new issue and expiration dates are set by the board and the counselor's or specialist's file is annotated to show the lapsed period.

C. Non-Payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention specialist who does not renew his certificate shall surrender the certificate by returning it to the office of the board.

2. A former board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention specialist who desires to exercise the option of the grace period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgment is made in writing that the certificate is not valid during the period in which it is inactive or lapsed.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1077 (December 1989), amended LR 19:634 (May 1993), LR 25:1243 (July 1999), LR 28:1960 (September 2002).

Chapter 9. Disciplinary Procedures

§901. Causes for Administrative Action

A. The Board, after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may deny, revoke or suspend any certification issued or applied for, access an administrative fee not to exceed \$500 per violation, or otherwise discipline a certificate holder, counselor or prevention specialist in training, or applicant on a finding that the person has violated the Substance Abuse

Counselor Certification Act, any of the rules and regulations promulgated by the board, the Code of Ethics, or prior final decisions and/or consent orders involving the certificate holder, counselor or prevention specialist in training, or applicant. Sometimes hereinafter in this Chapter, where the context allows, a certificate holder, counselor or prevention specialist in training, or applicant may be referred to as "person."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:634 (May 1993), LR 25:1244 (July 1999), LR 28:1960 (September 2002).

§903. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Substance Abuse Counselor Certification Act, the rules and regulations of the board, the Code of Ethics, or prior Final Decisions and/or Consent Orders involving the certificate holder, counselor or prevention specialist in training, or applicant and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 28:1961 (September 2002).

§905. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential and shall be sent to the board office. The investigating board member, with benefit of counsel, shall decide to investigate the charges or deny the charges. If the charges are denied, a letter of denial is prepared and forwarded to the complainant and the person accused of wrongdoing. If the investigating board member decides to investigate, the person shall be notified that allegations have been made that he may have committed a breach of statute, rule and regulation, the Code of Ethics, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. The response is to be made to the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the

complaint, and other pertinent information, if available, is reviewed, a determination by the investigating board member, with benefit of counsel, will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate the industry, the board through its investigating board member, may issue subpoenas to secure evidence of alleged violations of the Substance Abuse Counselor Certification Act, any of the rules and regulations promulgated by the Board, the Code of Ethics, or prior final decisions and/or consent orders involving the certificate holder, counselor or prevention specialist in training, or applicant.

D. "Counsel" referenced in this Chapter shall mean the board's general counsel who will be assisting in the investigation and prosecution of an administrative action. Said counsel shall not provide any legal advice or act as legal counsel to the board or its members, other than the investigating board member, regarding a pending administrative action during the investigation, prosecution and resolution of such disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 25:1244 (July 1999), LR 28:1961 (September 2002).

§907. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing.

B. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence

a. For complaints less serious, the investigating board member may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be closed.

b. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The investigating board member may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out at the conference may later be used in a formal hearing. Board members, other than the investigating board member, may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the Board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse

Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 28:1961 (September 2002).

§909. Formal Hearing

A. The board has the authority, granted by R.S. 37:3371 et seq., to bring administrative proceedings against persons to whom it has issued a certification, counselor or prevention specialist in training status, or any applicant. The person has the right to appear and be heard, either in person or by counsel; the right of notice; a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Substance Abuse Counselor Certification Act, the rules and regulations of the board, or the Code of Ethics. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the investigating board member or board attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than the investigating board member, may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary; or
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A sworn complaint is filed, charging the violation of one or more of the provisions of the Substance Abuse Counselor Certification Act, the rules and regulations promulgated thereto, the Code of Ethics, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least 30 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

- i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party);
- ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;
- iii. visual, physical and illustrative evidence;
- iv. admissions, which are written or oral statements of a party made either before or during the hearing;
- v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary; and/or
- vi. other items or things allowed into evidence by the Louisiana Evidence Code or applicable statutory law or jurisprudence.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows:

- a. the board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take;
- b. the person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded;
- c. the board's representative presents the case against the person;
- d. the person, or his attorney, cross-examines;
- e. the person presents evidence;
- f. the board's representative cross-examines;
- g. the board's representative rebuts the person's evidence;
- h. both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

- 11.a. The record of the hearing shall include:
 - i. all papers filed and served in the proceeding;
 - ii. all documents and/or other materials accepted as evidence at the hearing;
 - iii. statements of matters officially noticed;
 - iv. notices required by the statutes or rules; including notice of the hearing;
 - v. affidavits of service or receipts for mailing or process or other evidence of service;
 - vi. stipulations, settlement agreements or consent orders, if any;
 - vii. records of matters agreed upon at a prehearing conference;
 - viii. reports filed by the hearing officer, if one is used;
 - ix. orders of the board and its final decision;
 - x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
 - xi. a transcript of the proceedings, if one has been made, or an audio or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

- 12.a. The decision of the board shall be reached according to the following process:
 - i. determine the facts at issue on the basis of the evidence submitted at the hearing;
 - ii. determine whether the facts in the case support the charges brought against the person; and
 - iii. determine whether charges brought are in violation of the Substance Abuse Counselor Certification Act, rules and regulations of the board, and/or the Code of Ethics.

- b. Deliberation
 - i. The board will deliberate in closed session.
 - ii. The board will vote on each charge as to whether the charge has been supported by the evidence. The standard will be "preponderance of the evidence."

iii. After considering each charge, the board will vote on a resolution to dismiss the charges, deny, revoke or suspend any certification issued or applied for, access an administrative fee not to exceed \$500 per violation, or otherwise discipline a person or applicant. An affirmative vote of a majority of the quorum of the board shall be needed to deny, revoke, or suspend any certification issued or applied for, or counselor or prevention specialist in training status, in accordance with the provisions of this Chapter, access an administrative fee not to exceed \$500 per violation, or otherwise discipline a person or applicant. The investigating board member shall not be involved in or present during deliberation, nor shall he be included in the quorum or allowed to vote on the outcome of the proceeding.

iv. In addition to any sanction and/or administrative fees assessed by the board against the person, the board may assess all costs incurred in connection with the proceedings including, but not limited to, investigation, court reporting, attorney fees and court costs.

c. Sanctions and/or administrative fees assessed against the person who is party to the proceeding are based upon findings of fact and conclusions of law determined as a result of the hearing, and will be issued by the board in accordance with applicable statutory authority. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a stay of execution of a sanction for a period of time against an applicant or holder of a certificate. Such order, without a stay of execution, shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all persons of any action taken against him and may make public its orders and judgment in such manner and form as allowed by law.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within 10 days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

- i. the board's decision is clearly contrary to the law and evidence;
- ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;
- iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or
- iv. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 28:1962 (September 2002).

§911. Consent Order

A. An order involving a type of disciplinary action may be made to the board by the investigating board member with the consent of the person. To be accepted, a consent order requires formal consent of a majority of the quorum of the board. Such quorum does not include the investigating board member. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. A proposed consent order may be rejected by the board in which event a formal hearing will occur. The consent order, if accepted by the board, is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

§913. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the investigating board member judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

§915. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the Board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the denial, revocation or suspension of his certification, counselor or prevention specialist in training status, or application, assessment of an administrative fee not to exceed \$500, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

§917. Judicial Review of Adjudication

A. Any person whose certification, counselor or prevention specialist in training status, or application, has been denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within 30 days after the notice of the decision of the board. If judicial review is granted, the

board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

§919. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

§921. Emergency Action

A. If an affirmative vote of a majority of the quorum of the board called for a special meeting finds that public health, safety and welfare requires emergency action and incorporates a finding to that effect in its order, a summary suspension of a certificate or registration, or counselor or prevention specialist in training status, may be ordered pending proceedings for disciplinary action. Such proceedings shall be promptly instituted and a formal hearing held, after due notice, within 10 calendar days of the issuance of the order or summary suspension. The formal hearing referenced herein shall be conducted pursuant to the procedure established in §909 regarding formal hearings, less and except any procedures or time limits inconsistent with the emergency action. Thereafter, the person aggrieved by a decision of the board may seek judicial review and appeal pursuant to §§917 and 919.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

§923. Reinstatement of Suspended or Revoked Certification

A. Any person whose certification, or counselor or prevention specialist in training status, is suspended or revoked may, at the discretion of the board, be re-certified or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying re-certification or reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:1964 (September 2002).

Chapter 11. Declaratory Statements

§1101. Procedure

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Substance Abuse Counselor Certification Act, R.S. 37:3371 et seq., the rules and regulations promulgated by the board and/or the Code of Ethics.

B. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

1. the name and address of the petitioner;
2. specific reference to the statute, rule and regulation, or the Code of Ethics; and
3. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

C. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

D. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999), LR 28:1964 (September 2002).

§1103. Filing a Complaint

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:635 (May 1993), LR 25:1244 (July 1999), repealed LR 28:1965 (September 2002).

§1105. Investigation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:636 (May 1993), LR 25:1244 (July 1999), repealed LR 28:1965 (September 2002).

§1107. Resolution

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:635 (May 1993), repealed LR 28:1965 (September 2002).

Chapter 13. Impaired Professionals Program

§1301. Program

A. The board shall develop policies and procedures for the operation of an impaired professional program which shall include provision for the identification and rehabilitation of certificate holders, counselors in training and prevention specialists in training whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:636 (May 1993), LR 28:1965 (September 2002).

§1303. Identification

A. Any report of impairment shall be forwarded to the impaired professional program for review and

recommendation. The board shall investigate any individual who holds a certificate or training status issued by this board whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

B. Should the board have reasonable cause to believe that the fitness and ability of a certificate holder, counselor in training or prevention specialist in training is affected by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process and/or excessive use or abuse of drugs including alcohol, a thorough examination may be ordered.

C. The board may appoint or designate an examining agent which may be comprised of Board Certified Substance Abuse Counselors, Board Certified Compulsive Gambling Counselors, Board Certified Prevention Specialists, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into the fitness and ability of a certificate holder, counselor in training or prevention specialist in training to practice this profession with reasonable skill and safety to clients.

D. The order for examination shall be the certificate holder's, counselor in training's or prevention specialist in training's opportunity to defend against the alleged impairment and prove fitness to practice this profession. Refusal to follow the order for examination or failure to keep an appointment for examination or tests without just cause shall be de facto evidence of impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:636 (May 1993), LR 25:1244 (July 1999), LR 28:1965 (September 2002).

§1305. Rehabilitation

A. The certificate holder, counselor in training or prevention specialist in training shall be financially responsible for the payment of and obtaining an opinion and treatment plan from a qualified addictionist approved by the board.

B. The examining agent shall submit advisory reports and recommendations to the board. Priority shall be given to intervention, treatment, rehabilitation and monitoring recommendations if impairment is suspected or confirmed.

C. Voluntary surrender of certification or training status shall be accompanied by agreement to satisfy all conditions set by the board.

D. A formal hearing for suspension or revocation of certification or training status shall be the last resort.

E. The board may enter into a consent order with an impaired professional in lieu of decertification or termination of training status.

F. The impaired professional program shall supervise treatment, rehabilitation, and monitoring activities as required by the board and/or specified in any consent order. The certificate holder, counselor in training or prevention specialist in training shall be obligated to provide the board with documentation of successful completion of the treatment plan upon request. Failure to abide by these requirements and/or specifications shall result in a formal hearing for revocation of certification or training status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:636 (May 1993), LR 28:1965 (September 2002).

Chapter 15. Code of Ethics

§1501. Professional Representation

A. A counselor or specialist shall not misrepresent any professional qualifications or associations.

B. A counselor or specialist shall not misrepresent any agency or organization by presenting it as having attributes which it does not possess.

C. A counselor or specialist shall not make claims about the efficacy of any service that go beyond those which the counselor or specialist would be willing to subject to professional scrutiny through publishing the results and claims in a professional journal.

D. A counselor or specialist shall not encourage or, within the counselor's or specialist's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the counselor or specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:637 (May 1993), LR 28:1966 (September 2002).

§1503. Relationships with Clients

A. A counselor or specialist shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship.

B. A counselor shall inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the professional services are rendered.

C. A counselor shall provide counseling services only in the context of a professional relationship and not by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature.

D. No commission or rebate or any other form of remuneration shall be given or received by a counselor or specialist for the referral of clients for professional services.

E. A counselor or specialist shall not use relationships with clients to promote, for personal gain or the profit of an agency, commercial enterprises of any kind.

F. A counselor or specialist shall not, under normal circumstances, be involved in the counseling of or providing of prevention services to family members, intimate friends, close associates, or others whose welfare might be jeopardized by such a dual relationship.

G. A counselor shall not, under normal circumstances, offer professional services to a person concurrently receiving counseling or prevention assistance from another professional except with knowledge of the other professional.

H. A counselor or specialist shall take reasonable personal action to inform responsible authorities and appropriate individuals in cases where a client's condition indicates a clear and imminent danger to the client or others.

I. In group counseling or prevention settings, the counselor or specialist shall take reasonable precautions to protect individuals from physical and/or emotional trauma resulting from interaction within the group.

J. A counselor or specialist shall not engage in activities that seek to meet the counselor's or specialist's personal needs at the expense of a client.

K. A counselor or specialist shall not engage in sexual intimacies with any client.

L. A counselor or specialist shall terminate a professional relationship when it is reasonably clear that the client is not benefitting from it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:637 (May 1993), LR 28:1966 (September 2002).

§1505. Relationships with the Board

A. Irrespective of any training other than training in counseling or prevention which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor, compulsive gambling counselor or prevention specialist is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the Board in rendering counseling or prevention services.

B. A counselor, specialist, counselor in training or prevention specialist in training shall have the responsibility of reporting alleged misrepresentations or violations of board rules to the board.

C. A counselor, specialist, counselor in training or prevention specialist in training shall keep his board file updated by notifying the board of changes of address, telephone number and employment.

D. The board may ask any applicant or candidate for certification or re-certification as a counselor, specialist, or specialty designation whose file contains negative references of substance abuse to come before the board for an interview before the certification or specialty designation process may proceed.

E. The board shall consider the failure of a counselor or specialist to respond to a request for information or other correspondence as unprofessional conduct and grounds for instituting disciplinary proceedings.

F. A counselor or specialist must participate in continuing professional education programs as required and set forth in these rules.

G. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1080 (December 1989), amended LR 19:637 (May 1993), LR 25:1244 (July 1999), LR 28:1966 (September 2002).

§1507. Advertising and Announcements

A. Information used by a counselor or specialist in any advertisement or announcement of services shall not contain information which is false, inaccurate, misleading, partial, out of context, or deceptive.

B. The board imposes no restrictions on advertising by a counselor or specialist with regard to the use of any medium,

the counselor's or specialist's personal appearance or the use of his personal voice, the size or duration of an advertisement, or the use of a trade name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1080 (December 1989), amended LR 19:637 (May 1993), LR 28:1966 (September 2002).

§1509. Affirmation

A. Every BCSAC, BCCGC and BCPS must agree to affirm:

1. that his primary goal as a BCSAC or BCCGC is recovery for client and family of substance or gambling abuse; and his primary goal as a BCPS is for prevention of substance abuse;

2. - 8. ...

9. that I shall respect the rights and views of other counselors, specialists and professionals;

10. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1080 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999), LR 28:1967 (September 2002).

§1511. Confidentiality

A. No substance abuse counselor, gambling counselor, prevention specialist, counselor in training or prevention specialist in training may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

1. ...

2. when the person is a minor under the age of 18 and the information acquired by the substance abuse counselor, compulsive gambling counselor, prevention specialist, counselor in training or prevention specialist in training indicates that the child was the victim or subject of a crime, then the substance abuse counselor, compulsive gambling counselor, prevention specialist, counselor in training or prevention specialist in training may be required to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such crime is a subject of inquiry; or

3. ...

4. when the person waives the privilege by bringing charges before the board against the substance abuse counselor, compulsive gambling counselor, prevention specialist, counselor in training or prevention specialist in training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999), LR 28:1967 (September 2002).

Chapter 17. Registration and Board Approved Programs

§1701. Counselor in Training or Prevention Specialist in Training

A. A person who is in the process of obtaining the education, training, and experience required to meet the requirement for certification may register with the board as a counselor in training or prevention specialist in training, also known as CIT and PSIT respectively. The person must be 18 years of age and possess a high school diploma or equivalent to be eligible to apply for registration. Upon issuance of the registration as a CIT or PSIT, the person shall actively pursue certification as a counselor or prevention specialist respectively at all times.

B. The designation of counselor in training and prevention specialist in training shall be granted for a period beginning with approval of the request for CIT or PSIT status and extending to the nearest renewal date one year after approval, provided:

1. a personal data form supplying required information on identification, place of employment, training institution, and evidence of a supervision contract with a qualified professional supervisor is completed satisfactorily;

2. the qualified professional supervisor is registered with the board or provides documentation of his qualifications and commitment to provide direct supervision;

3. the training institution is registered with the board or provides a written statement of availability of suitable duties and satisfactory supervision both functionally and professionally;

4. a signed statement is supplied attesting to the registrant's intention to seek certification as a Board Certified Substance Abuse Counselor, Board Certified Compulsive Gambling Counselor, or Board Certified Prevention Specialist. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC; and

5. the fee for CIT or PSIT registration is paid.

C. Registration as a counselor in training or prevention specialist in training shall be renewed annually for a maximum of five consecutive years after the initial one year period of registration provided:

1. the renewal form is completed and submitted prior to expiration of the current registration;

2. the person continues to be in an appropriate training environment and under qualified professional supervision;

3. the fee for annual renewal of CIT or PSIT registration is paid; and

4. the renewal form approved by the board referenced in this section shall include:

a. a written progress report by the qualified professional supervisor on education and training completed towards certification;

b. a written evaluation by the qualified professional supervisor on hours performed pursuant to the 12 core functions for a CIT or the six program domains for a PSIT;

c. a written evaluation by the qualified professional supervisor on the performance of the knowledge, skills and attitude functions related to counseling or prevention; and

d. a written training plan by the qualified professional supervisor for the upcoming year of registration.

D. During the period of registration, the CIT shall:

1. provide direct client care utilizing the core functions and the knowledge, skills and attitude (KSAs) of substance abuse counseling only under the direct supervision of facility employed registered counselor supervisor or qualified professional supervisor;

2. not identify nor represent himself as counselor;

3. not perform any duties of a counselor independently, without direct supervision of the facility employed registered counselor supervisor or qualified professional supervisor;

4. not identify himself as a consultant to any substance abuse facility;

5. must notify the board of changes in job, moves, supervisor, recovery status, legal status and/or intention of not pursuing certification as a counselor.

E. As an exception to the requirement of direct supervision, a CIT may perform counseling functions when the registered counselor supervisor or qualified professional supervisor is on duty, or on-call and available for immediate assistance, if needed, and who have documented evidence to the satisfaction of the board of the following:

1. a minimum of 40 hours of training (including orientation, the 12 core functions and the knowledge, skills and attitude (KSAs) of substance abuse counseling); and

2. a minimum of 120 hours of direct supervision by registered counselor supervisor or qualified professional supervisor.

F. Any person who chooses not to register as a counselor in training or prevention specialist in training shall be responsible to provide documentation that the rules and regulations of the board have been complied with at the time of application for certification or at any other time that a question to the contrary may be raised by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:638 (May 1993), amended LR 25:1245 (July 1999), LR 28:1967 (September 2002).

§1703. Registered Counselor Supervisor or Qualified Professional Supervisor

A. - C.2. ...

3. have obtained at least 60 clock hours of education in supervision or management, with one semester credit hour being the equivalent of 15 clock hours.

D. - E.4. ...

F. A registered counselor supervisor shall be authorized to perform the following duties:

1. supervise substance abuse counselors;

2. direct supervision of a counselor in training or prevention specialist in training;

3. - 7. ...

G. A qualified professional supervisor, as defined in §105, who chooses not to register with the board as a registered counselor supervisor shall:

1. provide a statement of credentials and qualifications with each document which is presented to the board and at any time that a question as to supervision is raised;

2. provide direct client care utilizing the 12 core functions and knowledge, skills and attitude (KSAs) of the substance abuse counseling and/or specific functions related to that professional license;

3. serve as a resource person for other professionals counseling substance abuse clients;

4. attend and participate in care conferences, treatment planning activities, and discharge planning related to primary caseload and/or clients of professionals being supervised;

5. provide direct supervision of treatment and any in-training including, but not limited to, activities such as individual/group counseling, or educational presentations;

6. provide oversight and supervision of such activities as recreation, art/music, or vocational education to assure compliance with accepted standards of practice;

7. function as patient advocate in all treatment decisions affecting the client;

8. be designated as the clinical services supervisor unless other qualified professional supervisors are employed and available at the facility and/or actively supervise QPS if the program does not require a full-time supervisor;

9. assure that the facility adheres to rules and regulations regarding all substance abuse treatment including, but not limited to, group size, caseload and referrals; and

10. provide only those services, which are appropriate to his profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:638 (May 1993), amended LR 28:1968 (September 2002).

§1705. Approved Training Institution

A. ...

B. Institutions which provide clinical treatment of substance abuse or compulsive gambling or offer substance abuse counseling, compulsive gambling counseling or prevention intervention services, have sufficient qualified clinical staff, and can offer supervised clinical positions as substance abuse counselors, compulsive gambling counselors, counselors in training and/or prevention specialists in training, may register with the board as an approved training institution, also known as ATI, offering clinical experience for persons wishing to apply to become candidates for board certification. An agency, corporation, organization, partnership, organized health care facility, or other autonomous organizational entity shall qualify as an institution for the purposes of this rule.

C. The designation of approved training institution is granted to the nearest renewal date one year after the request for ATI status is approved, provided:

1. a satisfactory application form is submitted;

2. the institution is licensed appropriately to provide substance abuse or compulsive gambling treatment or substance abuse counseling, compulsive gambling counseling, or prevention intervention services;

3. the institution provides a statement signed by an authorized officer of the institution to document the institution's desire to provide clinical training in substance abuse counseling, compulsive gambling counseling, or prevention and acknowledgment of responsibility for such

activities. This statement must contain acknowledgment that the institution is independent of the board, that it will hold the board harmless, and that it will comply with the requirements of the board;

4. the institution provides statements documenting the appropriateness of their clinical treatment setting, the qualifications of its staff to provide daily clinical supervision and frequent direct supervision of trainees, and the planned duties and training program in which the trainees will be engaged. This statement must document that training, experience, and supervision in all 12 core functions or six performance domains will be provided;

5. - 6. ...

7. the institution agrees to an annual audit review of its clinical training programs for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and Prevention Specialists in Training and continuous quality improvement program by a registered counselor supervisor, and audit or review of its records at any time requested by the board;

8. ...

D. Registration as an approved training institution shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's clinical training programs for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and Prevention Specialists in Training and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. - 4. ...

E. An approved training institution shall be authorized to:

1. announce to the public and advertise the availability of its clinical training program;

2. employ counselors in training and prevention specialists in training; and

3. ...

F. Persons submitting application for certification which list experience from institutions which are not registered as an ATI must document that the institution where the experience was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution is approved as a clinical training institution for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and/or Prevention Specialists in Training by the certifying authority in the state where the institution is located;

2. the institution is approved as a clinical training institution for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and/or Prevention Specialists in Training by a certifying authority with which the board has a current agreement of reciprocity;

3. - 3.c. ...

d. that training, experience, and supervision in all 12 core functions or six performance domains was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:639 (May, 1993); amended LR 28:1968 (September 2002).

§1707. Approved Educational Provider

A. ...

B. Organizations who desire to provide continuing professional education in substance abuse counseling, compulsive gambling counseling, and prevention may register with the board as an approved educational provider, also known as AEP. Each educational offering is a form of learning experience and shall be known as a course for the purposes of this rule whether it was offered for academic credit, as a workshop, seminar, conference, or in any other acceptable format. In-service training conducted by and for an individual's own agency is not an acceptable educational offering format. An individual, partnership, corporation, association, organized health care system, educational institution, governmental agency, or any other autonomous entity shall qualify as an organization for the purposes of this rule.

C. - C.2. ...

3. the organization provides a statement, signed by an authorized officer of the organization, to document the organization's desire to provide continuing professional education in substance abuse counseling, compulsive gambling counseling and prevention and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the organization is independent of the board, that it will hold the board harmless, and that it will comply with the requirements of the board;

4. - 4.e. ...

5. the organization agrees to file a course report with the board within 30 days of completion for each course which shall contain:

a. - d. ...

e. a copy of the flier or brochure used to advertise the course to the public.

6. ...

a. the course description containing the educational objectives; course outline; instructional modalities; and relevance of the material, including relationship to the 12 core functions or six performance domains, theoretical content related to scientific knowledge of practicing in the field of substance abuse counseling, compulsive gambling counseling, or prevention; application of scientific knowledge in the field of substance abuse counseling, compulsive gambling counseling or prevention direct and/or indirect patient/client care, and which renewal education area or areas are addressed;

6.b. - 7. ...

8. the organization agrees to notify the board and each person who completed a course in a timely fashion if it is determined that a course did not comply with the standards of the board for substance abuse counselor, compulsive gambling counselor or prevention education. The organization shall also present its written policy on refunds and cancellation;

C.9 - F.1. ...

2. the organization documents the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions or six performance domains, and which renewal education area or areas are addressed;

F.3 - G.2 ...

H. A trainee, counselor, or specialist who wishes educational credit from a source which has not been approved by this board shall document that the provider of such education meets standards which are equivalent to those of this Board. Equivalence may be demonstrated by:

1. the provider holding approval as a substance abuse, compulsive gambling or prevention education provider from the certifying authority in the state where the course was offered;

2. the provider holding approval as a substance abuse, compulsive gambling or prevention education provider from a certifying authority with which the board has a current agreement of reciprocity;

3. providing documentation of:

a. the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions or six performance domains, and which renewal education area or areas are addressed;

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:640, (May 1993), amended LR 28:1969 (September 2002).

§1709. Approved Institution of Higher Education

A. ...

B. Institutions which grant formal college credit for courses in substance abuse counseling, compulsive gambling counseling or prevention, have sufficient qualified faculty, and can offer supervised clinical practicum or internship may register with the board as an approved institution of higher education, also known as AIHE.

C. - C.2. ...

3. the institution provides a statement, signed by an authorized officer of the institution, to document the institution's desire to provide substance abuse counseling, compulsive gambling counseling or prevention education and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the board, that it will hold the board harmless, and that it will comply with the requirements of the board;

4. the institution provides a statement documenting the appropriateness of their curriculum, the qualifications of the faculty to teach such courses, and the policy on practicum and internship courses. This statement must document that education, training, experience, and supervision when appropriate in all 12 core functions or six performance domains will be provided;

5. ...

6. the institution agrees to provide for ongoing consultation from a Registered Counselor Supervisor or submit the credentials and qualifications of the qualified professional supervisor who will provide ongoing consultation relative to the quality and content of its substance abuse counseling, compulsive gambling counseling or prevention curriculum;

7. the institution agrees to an annual audit review of its substance abuse counseling, compulsive gambling, or prevention curriculum and continuous quality improvement program by a registered counselor supervisor, and an audit or review of its records at any time by the board.

C.8 - D.1. ...

2. the annual audit report of the institution's substance abuse counseling, compulsive gambling counseling, and prevention curriculum and continuous quality improvement program, signed by a registered counselor supervisor, is filed with the board;

3. - 4. ...

E. An approved institution of higher education shall be authorized to:

1. announce to the public and advertise the availability of its substance abuse counseling, compulsive gambling counseling or prevention curriculum;

2. offer practicum or internship courses in substance abuse counseling, compulsive gambling counseling or prevention for credit;

3. ...

F. Persons submitting application for certification which list education from institutions which are not registered as an AIHE shall document that the educational institution where the education was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution holding approval as a higher education provider of substance abuse counseling, compulsive gambling counseling or prevention education from the certifying authority in the state where the institution is located;

2. the institution holding approval as a higher education provider of substance abuse counseling, compulsive gambling counseling, or prevention education from a certifying authority with which the board has a current agreement of reciprocity;

3. - 3.d. ...

e. that education, training, experience, and supervision when appropriate in all 12 core functions or six performance domains was provided.

G. Persons submitting application for certification which claim more than 18 semester hour equivalents must provide documentation demonstrating that a minimum of 12 semester hours of credit were not reasonably available from an AIHE. The board in its discretion may grant additional semester hour equivalents for cases of documented hardship at the rate of 15 clock hours of AEP education per one semester hour of AIHE credit provided a written request for waiver is submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:641, (May 1993), amended LR 28:1970 (September 2002).

Chapter 19. Miscellaneous

§1901. Injunction

A. The board may bring an action to enjoin any person from practicing as a certificate holder, or counselor or

prevention specialist in training, without current authority from the board.

B. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provision of these rules and regulations.

C. If the court finds that the person is violating, or is threatening to violate, this Chapter it shall enter an injunction restraining him from such unlawful acts.

D. In a suit for an injunction, the board through its chairman, may demand of the defendant a penalty of not less than \$100 nor more than \$1,000, and attorney's fees besides the costs of court. The judgment for penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction is made absolute.

E. The successful maintenance of an action based on any one of the remedies set forth in this Rule shall in no way prejudice the prosecution of an action based on any other of the remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:642 (May 1993), LR 28:1970 (September 2002).

§1903. Persons and Practices Not Affected

A. ...

B. Nothing in these rules and regulations shall be construed as prohibiting other licensed professionals, including members of the clergy and Christian Science practitioners, from the delivery of medical, psychotherapeutic, counseling, social work, psychological, or educational services to substance abusers, compulsive gamblers and their families.

C. Nothing in these rules and regulations shall be construed as prohibiting the activities of any person who is registered as a counselor in training or prevention specialist in training by the board and who is employed or supervised by a qualified professional supervisor, while carrying out specific tasks under professional supervision. The supervisee shall not represent himself to the public as a substance abuse counselor, compulsive gambling counselor, or prevention specialist.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989); amended LR 19:642, (May, 1993); LR 28:1971 (September 2002).

§1905. Prohibited Activities

A. No person shall hold himself out as a substance abuse counselor, compulsive gambling counselor, or prevention specialist unless he has been certified as such under the provisions of the Substance Abuse Counselor Certification Act and the board's rules.

B. No person shall hold himself out as a counselor in training or prevention specialist in training unless he has been registered as such under the provisions of the Substance Abuse Counselor Certification Act and the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse

Counselors, LR 15:1079 (December 1989), amended LR 19:642 (May 1993), LR 28:1971 (September 2002).

Ellen R. Calvert
Chairman

0209#035

RULE

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Speech-Language Pathology and Audiology
(LAC 46:LXXXV.109, 113, 115,
117, 119, 123, 125, and 507)

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology has amended the following Rules as authorized by R.S. 37:2656(1)(c) to clarify the Rules amended on February 20, 2001, and to correct codification errors that occurred in the course of promulgation.

The following amendments address codification errors in the Sections of the Board's Rules, Regulations, and Procedures that pertain to: Requirement to Upgrade Licenses, License Renewals, Continuing Education Requirements, Application Procedures, Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License, Hearing Aid Dispensing, Disciplinary Action, and General Procedural Rules for Disciplinary Hearings.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§109. Requirements to Upgrade License

A. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of nine months of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$25.

B. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not completed the nine months of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of nine months of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision through date of upgrade (Form 100);
3. upgrade fee of \$25.

C. The Provisional Speech-Language Pathology Assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office;

2. upgrade fee of \$25.

D. The Restricted Speech-Language Pathology or Restricted Audiology licensee who holds a master's degree or its equivalent in Speech-Language Pathology or Audiology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the Educational Testing Service area examination;

2. verification of nine months of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;

3. proof of supervision through date of upgrade (Form 100);

4. upgrade fee of \$25.

E. Restricted Speech-Language Pathology licensees who hold a bachelor's degree who wish to change their status to a Provisional Speech-Language Pathology License shall submit an application for license and meet the requirements of R.S. 37:2659.B.

F. Speech-Language Pathology Assistant licensees who wish to change their status to a Provisional Speech-Language Pathology License shall submit an application for license and meet the requirements of R.S. 37:2759.B.

G. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was acknowledged to have been received by the board.

H. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §123, and shall submit the board's Form 100 at the time of renewal. The board's Form 100 and the upgrade fee shall be submitted to upgrade license status.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:329 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002).

§113. License Renewals

A. All licenses shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee for that period.

C. Licensees shall list on their renewal form the licensees and aides that they are supervising, i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants.

D. It is the licensee's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities of at least 10 clock hours for each license period, July 1 through June 30, in accordance with §115.

F. Retired status is granted to speech-language pathologists and audiologists who are retired and do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30.

1. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

2. Retired licensees may retain their license by payment of the annual renewal fee. In order to resume the practice of speech-language pathology or audiology, retired licensees shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that retired status was maintained.

3. The licensee may submit the required five hours of continuing education each year he/she is retired or submit all of the hours the year he/she returns to work in the profession.

G. Licensees who hold a license requiring supervision and who are not working in the field of speech-language pathology and/or audiology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through October 31, provided the Delinquent Renewal Fee is paid in accordance with §111.C and D, and the continuing education summary form is submitted.

2. A licensee whose license lapsed on November 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §111.A and D, and §115.

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §113.I.3.

I. Conditional renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §111. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education

requirement and submitting the appropriate renewal fee as required in accordance with §111 and §115.

3. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of 5 clock hours of continuing education in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002).

§115. Continuing Education Requirements

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1 through June 30.

B. Of the 10 hours, five shall be in the area of licensure, and five may be in areas related to the professions of audiology and speech-language pathology.

C. Audiologists who register as dispensing audiologists shall insure that at least three of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. Dual licensees shall complete 15 hours per year with a minimum of five hours in speech-language pathology and five hours in audiology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

E. Continuing Education events occurring in the month of June, will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

F. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

G. Continuing Education hours accrued during the applicant's grace period will be accepted.

H. The graduated scale for the collection of Continuing Education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. Acceptable Continuing Education Sponsors and Activities

1. board-sponsored activities (maximum of 10 hours);
2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Audiological Association, American Speech-Language-Hearing Association, Louisiana Speech-Language-Hearing Association, Speech Pathologists and Audiologists in

Louisiana Schools, Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);

3. meetings of related professional organizations (maximum of five hours);

4. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);

5. distance learning (video conferences, telephone seminars and Internet courses sponsored by universities, schools, clinics, state agencies, hospitals, or related professional organizations) (maximum of five hours);

6. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area, maximum of 10 hours if in the area of licensure);

7. publication of articles in a refereed journal for the year in which they are published (five hours);

8. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of five hours);

9. the presenting licensee may count 1 1/2 times the value of a workshop the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours.) The workshop will count for the actual hour value for each subsequent presentation of the same workshop;

10. teaching at the college level in the area of communication disorders is not acceptable.

J. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §115.I.1-10, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 60 days in advance) of self-study activities, or other appropriate activities.

3. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

4. Self-study activities in the area of communication disorders:

- a. audio or video tapes (maximum of five hours);
- b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of five hours).

5. Publication of diagnostic and/or therapeutic materials (maximum of five hours).

K. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities on a tracking sheet provided by the board. The tracking sheet will be included with renewal notices and will cover the period of July 1 through June 30.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. Approximately 10 percent will be audited each year as a means of evaluating compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002).

§117. Application Procedures

A. An application for a license to practice speech-language pathology and/or audiology in Louisiana shall be made on forms supplied by the board.

B. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned.

C. Documentation of supervised clinical practicum hours shall be submitted on university forms and signed by a clinical supervisor or director.

D. The initial license fee submitted to this board shall be paid by certified check, cashier's check or money order. Only renewal fees may be paid by personal check.

E. Speech-language pathologists, assistants and/or audiologists who have held a license in another state, shall provide official verification of their licensure status in each state.

F. Documentation of nine months of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

G. Documentation of nine months of postgraduate professional employment/experience, a passing score on NTE, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the Certificate of Clinical Competence from the American Speech-Hearing-Language Association.

H. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is acknowledged to have been received by the board.

I. While an application for a license is being considered by the board, the applicant may be employed as a speech-language pathologist, audiologist or speech-language pathology assistant for a period not longer than 60 days from the date that their application is acknowledged to have been received by the board. In no event may the applicant be employed as a speech-language pathologist, audiologist or speech-language pathology assistant after the application has been denied.

J. An applicant may be granted only one 60-day period to work while his/her initial application is being processed. No additional grace period may be granted to an applicant.

K. When there is probable cause to believe that an applicant practiced illegally in Louisiana as a speech-language pathologist, speech-language pathology assistant and/or audiologist, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's Rules, Regulations and Procedures, and Ethical Questions or within 10 months of the date of the consent agreement and order, the applicant shall complete not fewer than five hours of continuing education in the area of ethics.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. The applicant may be required to appear before the board following completion of the continuing education in ethics to answer questions regarding the continuing education.

e. The consent order and agreement shall be published in the LBESPA newsletter.

f. If the applicant fails to successfully complete all requirements set forth in the above paragraphs within 90 days, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent order and agreement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:352 (May 1996), amended LR 27:199 (February 2001), LR 28:1974 (September 2002).

§119. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted Licensees, Provisional Speech-Language Pathology Licensees and Provisional Audiology Licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with R.S. 37:2659.A. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. Speech-Language Pathologists or Audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

C. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For twelve-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester.

D. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

E. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

F. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at

the time of license renewal attesting to the fact that they did not work in the profession during the license period.

G All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

H. When supervision requirements have not been met in accordance with §119.C.1 and 2., licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002).

§123. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650, et seq., and shall register their intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$25 and an annual renewal fee of \$10 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a Provisional Audiology License shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §119 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines.

1. Audiologists shall conduct a pre-purchase evaluation that includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing;
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements and/or real ear measurements unless the patient's physical conditions prohibit accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

G Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under R.S. 37:2464.A as part of their employment with a state health agency may register as dispensing audiologists by presenting proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that may include:

- a. hearing aid fitting courses sponsored by hearing aid manufacturers;
- b. university programs; or
- c. programs of independent study;

2. any individualized program of study shall be submitted to the board a minimum of 60 days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002).

§125. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650, et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), LR 22:354 (May 1996), LR 28:1975 (September 2002).

Chapter 5. Procedural Rules

§507. General Procedural Rules For Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said

written request and receipt of any and all fees for subpoenas as provided for in §111.R promulgated by the board.

B. The board may petition a court of competent jurisdiction for a contempt rule to show cause when there is a failure to comply with a subpoena.

C. The board shall elect from its membership a person to act as presiding officer of the hearing. The presiding officer shall have the power to: regulate the discovery process; hold pre-hearing conferences for the simplification or settlement of issues; convene the hearing; place witnesses under oath; take action necessary to maintain order; rule on motions and procedural questions arising prior to, during or after the hearing; rule on objections and admissibility of evidence; call recesses or adjourn the hearing; and prescribe and enforce general rules of conduct and decorum. The other board members may not delegate their decision making and fact finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision making process than any other board member. The board's findings of fact and conclusions of law shall be signed by a majority of the hearing panel finding those facts and conclusions of law. Any member of the hearing panel disagreeing with those findings and conclusions may also file a dissent in the record with her/his decisions therefore.

D. Any board member having reason to believe that s/he is biased against one of the parties in the proceeding, or has a personal interest in the outcome of the proceeding, shall immediately notify the other board members and request to be disqualified. Any party to a hearing may file with the board an affidavit requesting a disqualification of a board member from the formal hearing because of the board member's bias or personal interest. As soon as possible, but no later than the beginning of the hearing, the majority of the board shall pass upon any request for disqualification. The concerned board member shall not participate in the deliberation of the board on the issue of disqualification, and shall not vote on the issue. If the board determines that there is no merit to the request for disqualification, the board shall proceed with the hearing. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event disqualification occurs, the board shall immediately request the governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

E. The parties to the hearing are urged, but not required, to confer prior to the hearing, through their respective counsel, or personally, to attempt to reduce or simplify the issues to be heard. The board shall honor any stipulations arrived at between the parties as proven facts at the hearing. The purpose at the pre-hearing conference is to insure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute between the parties.

F. The procedures to be followed in conducting the hearing governing the order of the proceedings are contained in Chapter 12 of the *Disciplinary Action Manual For Occupational Licensing Boards* prepared by the Louisiana Department of Justice, 1979, through the office of the attorney general. A copy of the chapter will be provided to any interested party involved with the hearing upon receipt by the board of a written request therefore.

G Parties may conduct discovery pursuant to the Administrative Procedure Act, R.S. 49:950, et seq. Said discovery shall not unduly delay the hearing before the board.

H. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to constitute good cause.

I. Upon request by either the licensee or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April, 1991), amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:1975 (September 2002).

Glenn M. Waguespack, L-AUD
Chairperson

0209#093

RULE

Department of Health and Hospitals Board of Medical Examiners

Supervision of Occupational Therapy Assistants
by Occupational Therapists
(LAC 46:XLV.4903 - 4925)

In accordance with R.S. 49:953 the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270.B, as well as the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, the Louisiana State Board of Medical Examiners has amended its administrative rules governing supervision of certified occupational therapy assistants by occupational therapists. The rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Chapter 49. Occupational Therapists and

Occupational Therapy Assistants

Subchapter A. General Provisions

' 4903. Definitions

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

* * *

*Client*Ca person, group, program, organization or community for whom the occupational therapy practitioner is providing service (American Occupational Therapy Association, adopted 1995).

*Client Care Conference*Ca meeting between the supervising occupational therapist and an occupational therapy assistant to discuss client progress or lack thereof, client issues, revision of goals, initiation, modification or termination of an individual program plan, assessment of utilization of additional resources, discharge and any other

information which may affect a client's plan of care. Except when specifically required in this Chapter to be conducted by face to face conference, such meeting may be undertaken by telephone or other means of telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant.

Close Client Care SupervisionCface to face observation of an occupational therapy assistant administering occupational therapy to a client, accompanied or followed in a timely fashion by verbal discussion of client goals, the individual program plan and other matters which may affect the client's plan of care.

* * *

Evaluate/EvaluationCthe process of collecting and interpreting data through direct observation, interview, record review, or testing of a client.

* * *

Face to FaceCdirect communication between the occupational therapist supervising client care and an occupational therapy assistant, which is conducted in the physical presence of one another.

* * *

Practice-ExperienceC1600 hours of documented work as an occupational therapy practitioner is equivalent of one year of practice experience.

* * *

Re-Evaluate/Re-EvaluationCthe process of periodically and systematically reviewing and interpreting the effectiveness and efficiency of client goals, the treatment plan, intervention and any other aspect of an individual's occupational therapy program.

* * *

Service CompetencyCwith respect to an occupational therapy assistant, means one who is appropriately trained and qualified to perform occupational therapy in accordance with the current standards of practice, as identified by the American Occupational Therapy Association.

* * *

Supervising Occupational TherapistCan occupational therapist responsible to the client for occupational therapy who observes, directs, consults with and retains responsibility for the service competence and performance of an occupational therapy assistant in the administration of occupational therapy to such client.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986); amended LR 28:1976 (September 2002).

Subchapter B. Standards of Practice

§4915. Individual Program Implementation

A. ...

B. Occupational therapists shall implement the program according to the program plan. Occupational therapy assistants may assist in program implementation under the supervision of and in consultation with a supervising occupational therapist, as prescribed by §4919 and §4925.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986); amended LR 28:1977 (September 2002).

§4919. Quality Assurance

A. - B. ...

C. Following acceptance of responsibility to supervise an occupational therapy assistant, but prior to utilization of such assistant in the implementation of any client program plan or other administration of occupational therapy to a client, the supervising occupational therapist shall initially evaluate and document the occupational therapy assistant's service competency to administer all occupational therapy services which are to be performed under his or her supervision and direction. Following such an initial evaluation the supervising occupational therapist shall thereafter annually conduct and document a service competency evaluation to assess the occupational therapy assistant's performance during the preceding year. Such documentation shall include the date the evaluation was performed, a description of the tasks evaluated, and the name, signature and Louisiana license number of the supervising occupational therapist conducting the evaluation. A supervising occupational therapist shall cause such documentation to be maintained by the occupational therapy assistant and each clinic, facility or home health agency at or for which an occupational therapy assistant practices under his or her supervision. In practice settings where an occupational therapy assistant is supervised by more than one occupational therapist, evaluations performed by one supervising occupational therapist will satisfy the requirements of this Section for all occupational therapists supervising the occupational therapy assistant in the performance of the same services, provided that their name, signature and Louisiana license number appears on the evaluation.

D. A supervising occupational therapist is responsible for and must be capable of demonstrating compliance with the requirements of this Chapter respecting supervision of occupational therapy assistants.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986); amended LR 28:1977 (September 2002).

§4925. Supervision of Occupational Therapy Assistants

A. The rules of this Section, together with those specified in §4915 and §4919, govern supervision of an occupational therapy assistant by a supervising occupational therapist in any clinical setting.

B. An occupational therapy assistant may assist in implementation of a client program plan in consultation with and under the supervision of an occupational therapist. Such supervision shall not be construed in every case to require the continuous physical presence of the supervising occupational therapist provided, however, that the supervising occupational therapist and the occupational therapy assistant must have the capability to be in contact with each other by telephone or other telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant. Supervision shall exist when the occupational therapist responsible for the client gives informed concurrence of the actions of the occupational

therapy assistant and adheres to all requirements set forth in this Chapter.

C. Prior to Implementation of Program Plan. Prior to the administration of occupational therapy by an occupational therapy assistant, the supervising occupational therapist shall, in accordance with AOTA standards of practice as may from time to time be amended:

1. perform an evaluation;
2. identify and establish occupational therapy needs, goals and an individual program plan;
3. ensure that the documents created pursuant to §4925.C.1 and §4925.C.2 are made part of the client's record and accessible to the occupational therapy assistant prior to his or her the first treatment session with the client; and
4. be available for a client care conference.

D. Throughout the Duration of Program Plan. Following implementation and throughout the duration of the program plan:

1. a supervising occupational therapist shall periodically and systematically re-evaluate the appropriateness of all services delivered. Such information shall be documented in the client's record, which shall be made available to the occupational therapy assistant. The supervising occupational therapist preparing such revisions shall communicate any critical aspect or significant change in the program plan to the occupational therapy assistant by means of a client care conference prior to the occupational therapy assistant's next treatment session with the client;

2. at all times during which an occupational therapy assistant assists in program plan implementation, the supervising occupational therapist shall be immediately accessible for a client care conference; and

3. an occupational therapy assistant shall not administer occupational therapy to any client whose physical, cognitive, functional or mental status differs substantially from that identified by the supervising occupational therapist's individual program plan in the absence of re-evaluation by, or an immediate prior client care conference with, the supervising occupational therapist.

E. In addition to the terms and conditions specified in §4919 and §4925.A.-D, the following additional requirements are applicable to an occupational therapy assistant's administration of occupational therapy under the supervision of an occupational therapist.

1. In any clinical setting, other than specified by §4925.E.3:

- a. an occupational therapy assistant with less than one year of practice experience shall receive close client care supervision in each clinical setting for not less than one of every four, or 25+ percent, of those clients to whom he or she has administered occupational therapy during an average weekly case load. In addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy; or

- b. an occupational therapy assistant with more than one but less than two years of practice experience shall receive close client care supervision in each clinical setting for not less than one of every ten, or 10 percent, of those clients seen during an average weekly case load. In addition

a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy; or

- c. an occupational therapy assistant with more than two years of practice experience shall receive a client care conference with respect to each client to whom the occupational therapy assistant administers occupational therapy.

2. School System, Long-Term Psychiatric and Non-Skilled Nursing Home Facility Settings. In addition to the requirements prescribed in §4925.E.1, clients in school system, long-term psychiatric or non-skilled nursing home facility settings shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session.

3. Home Health Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to a home health setting. An occupational therapy assistant may assist in implementation of a client program plan in a home health setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

- a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in a home health environment;

- b. each client in a home health setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once every two weeks or every sixth treatment session; and

- c. a face-to-face client care conference shall occur not less frequently than once every two weeks to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in a home health setting. Such conference shall be documented by the supervising occupational therapist in a supervisory log and maintained by or at the home health entity.

F. Mutual Obligations and Responsibilities. A supervising occupational therapist and occupational therapy assistant shall bear equal reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in this Chapter.

G. The administration of occupational therapy other than in accordance with the provisions of this section and §4919 shall be deemed a violation of these rules, subjecting the occupational therapist and/or an occupational therapy assistant to suspension or revocation of licensure pursuant to §4921.A.18.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), amended LR 28:1977 (September 2002).

John B. Bobear, M.D.
Executive Director

0209#031

RULE
Department of Health and Hospitals
Board of Nursing

School Annual Report Fees (LAC 46:XLVII.3505)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing pursuant to the authority vested in the Board by R.S. 37:918 and R.S. 37:919 has adopted rules amending the Professional and Occupational Standards pertaining to schools' annual report fees. The proposed amendments of the rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35 Nursing Education Programs

§3505. Approval

A. ...

B. Notwithstanding any other provisions of this Chapter, the Board shall collect in advance fees for education services as follows:

1. - 2. ...

3. School Annual Report Fee \$50.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), repromulgated LR 24:1293 (July 1998), amended LR 26:83 (January 2000), LR 28:1979 (September 2002).

Barbara L. Morvant
Executive Director

0209#091

RULE
Department of Health and Hospitals
Board of Physical Therapy Examiners

Licensure; Continuing Education; Practice;
Supervision; Documentation; Substance
Abuse Recovery Program; and Fees
(LAC 46:LIV.Chapters 1, 3, and 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Physical Therapy Examiners (Board), hereby amends its existing rules as set forth below.

These rule amendments will further assist the board in its ability to certify the education of foreign physical therapy school graduates prior to receiving licensure to practice in Louisiana. These rule amendments will clarify the practice, and supervision of physical therapist assistants and supportive personnel. Slight changes and clarifications are recommended regarding clinical/preventive and administrative in nature. These rule amendments are intended to clarify existing rules concerning the requirements of documentation of treatment plans, referrals for billing, and a substance abuse recovery program.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIV. Physical Therapy Examiners

**Chapter 1. Physical Therapists and Physical
Therapists Assistants**

Subchapter C. Graduates of Foreign P.T. Schools

§115. Qualifications for Licensure

A. - A.1. ...

2. have successfully completed his education in physical therapy that is substantially equivalent to the requirements of physical therapists educated in accredited physical therapy programs in the United States as the board, upon evaluation of the applicants educational program by an approved credentials evaluation service, deems sufficient, however, such substantially equivalent education shall be no less than a total of 120 semester hour credits which includes a minimum of 69 semester hour credits for professional education and a minimum of 42 semester hours of general education as established in a course work evaluation tool approved by the board;

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:1979 (September 2002).

**Subchapter H. License and Permit Issuance,
Termination, Renewal and Reinstatement**

§167. Reinstatement of License

A. ...

B. A licensee who fails to timely renew his license, but applies by reinstatement on or before January 31, shall be required to complete the following:

1. the renewal application;
2. pay the renewal fee and the reinstatement fee; and
3. provide a written explanation of his failure to timely renew;

4. reinstatement pursuant to this subsection does not insulate the applicant from disciplinary action for practicing without a current license between January 1 and January 31 of the pertinent year.

C.1. A licensee who fails to timely renew his license and applies by reinstatement postmarked after January 31, shall be required to complete the following:

- a. the application for reinstatement;
- b. pay the renewal fee and the reinstatement fee;
- c. provide a written explanation of his failure to timely renew; and
- d. provide two letters of character recommendation from reputable physicians, dentists, podiatrists, and/or physical therapists who have knowledge of his most recent professional activities.

2. Reinstatement pursuant to this subsection does not insulate the applicant from disciplinary action for practicing without a current license between January 1 and the reinstatement date of the pertinent year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002).

Subchapter I. Continuing Education

§169. Requirements

A. ...

B. Criteria of Acceptability. Acceptable continuing education activities are defined as formally organized and planned instructional experiences of at least two hours duration per sitting, with a qualified instructor or instructors, which may include board-approved home study, videotape, DVD and/or computer courses; and with objectives compatible with the professional continuing education needs of the physical therapist or physical therapist assistant. There are two types of approved courses: clinical/preventative courses and administrative. The entirety of the annual requirement may be comprised of approved clinical/preventative courses; however, a minimum of eight hours must be in approved clinical/preventative courses. A maximum of four hours of approved administrative courses will be allowed to be applied to the annual requirement. The minimum attendance requirement of two consecutive hours in duration must be maintained.

1. - 3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000), LR 28:1980 (September 2002).

Subpart 2. Practice

Subchapter A. General Provisions

Chapter 3. Practice

§305. Special Definition; Practice of Physical Therapy

A. As used in the definition of practice of physical therapy set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have their meanings specified.

Written Treatment Plan or Program—written statements made by a physical therapist that specify the measurable goals, specific treatment to be used, and proposed duration and frequency of treatment. The written treatment plan or program is an integral component of a physical therapy evaluation, however, the written treatment plan or program must be completed by the physical therapist prior to delegation of appropriate treatment to a physical therapist assistant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002).

§321. Supervision Requirements

A. Licensed Physical Therapy Assistant

1. With regards to the requirement of periodic supervision of patient physical therapy services rendered by a licensed physical therapist assistant in acute care facilities, rehabilitation services, skilled nursing facilities and outpatient facilities, the supervising physical therapist shall:

a. be on premises daily for at least one-half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

b. - e. ...

2. With regards to the requirement of periodic supervision of patient physical therapy services rendered by a licensed physical therapist assistant in nursing homes, school systems, and home health settings, the supervising physical therapist shall:

a. - e. ...

3. With regards to the requirement of periodic supervision of client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document.

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall be readily accessible by beeper or mobile phone;

d. shall conduct a face to face conference with the physical therapist assistant regarding each client at least every thirty days commencing with the initiation of the preventative services for that client; and

e. may delegate only those functions to a physical therapist assistant for which he has documented training and skills.

4. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of the physical therapist who is ultimately responsible for the acts or omissions of this individual.

B. - B.3. ...

C. Physical Therapy Aide/Technician

1. - 2. ...

3. The physical therapist assistant may utilize one physical therapy aide/technician for physical assistance when more than one person is required, as determined by the physical therapist, to ensure the safety and welfare of the patient during ambulation, transfers, or functional activities. However, no portion of the treatment may be delegated by a physical therapist assistant to the physical therapy aide/technician. The use of the physical therapy aide/technician for physical assistance does not require continuous supervision on the premises by a physical therapist for the limited purpose set forth in this subsection.

4. With regards to the requirement of continuous supervision of client preventative services rendered by a physical therapy aide/technician, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document.

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall provide continuous, on the premises, supervision of a physical therapy aide/technician during the performance of preventative services;

d. may delegate only those functions to a physical therapy aide/technician for which he has documented training and skills.

5. The level of responsibility assigned to a physical therapy aide/technician pursuant to §321.C is at the discretion of the physical therapist who is ultimately responsible for the acts or omissions of this individual.

D. - E.2. ...

F. Unavailability of Supervising Physical Therapist

1. In the event the supervising physical therapist of record as approved by the board for a physical therapist permittee or physical therapist assistant permittee can not fulfill his supervisory obligations, secondary to illness or vacation, for less than one week, then a substitute supervising physical therapist licensed by the board and in good standing may be used in his stead. The substitute physical therapist is not required to be approved by the board under this scenario; however, the board approved supervisor, the substitute supervisor, as well as the permittee supervised, will be held responsible for the acts or omissions of the supervised permittee.

2. If the supervising physical therapist of record as approved by the board for a physical therapist permittee or physical therapist assistant permittee can not fulfill his supervisory obligations, secondary to illness or vacation, for one week or more, then he shall send written notification to the board for approval of a new supervising physical therapist during his period of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002).

§323. Documentation Standards

A. - A.1. ...

2. An initial physical therapy evaluation is the written documentation of patient history, pertinent medical diagnosis, signs, symptoms, objective tests or measurements, and the physical therapist's interpretation of such findings, as well as goals and written treatment plan or program as defined in §305. The initial physical therapy evaluation shall be documented and signed by the physical therapist performing the evaluation no later than seven consecutive days from the performance of the evaluation. An initial physical therapy evaluation shall not be documented or signed by a physical therapist assistant or other supportive personnel.

A.3. - B. ...

C. A signature stamp shall not be used in lieu of a written signature on physical therapy patient records. Forms of electronic signatures, established pursuant to written

policies and mechanisms to assure that only the author can authenticate his own entry, are acceptable.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002).

Subchapter D. Disciplinary Proceedings

§327. Definitions

A. - D. ...

E. As used in R.S. 37:2413A.(7) the term "unprofessional conduct" means:

1. - 6. ...

7. a violation of La. R.S. 37:1745 will subject a physical therapist to disciplinary action. La. R.S. 37:1745 provides in pertinent part:

a. Health care provider means a person, partnership, or corporation licensed by the state to provide health care or professional services as a physician, chiropractor, dentist, dental hygienist, podiatrist, optometrist, physical therapist, psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

b. No health care provider shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients. Payments representing a return on investment based upon a percentage of ownership are not considered a direct or indirect payment for the purposes of this Section.

F. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 28:1981 (September 2002).

§355. Substance Abuse Recovery Program

A. In lieu of suspension or revocation of a license or the denial of an application for a license, to practice physical therapy or physical therapist assisting, the board may permit an applicant or licensee to actively participate in a board-approved substance abuse recovery program if:

1. the board has evidence that the applicant or licensee is impaired, which includes substance abuse;

2. the applicant or licensee has not been convicted of a felony relating to substance abuse, which includes alcohol or drug abuse, in a court of law of the United States or a court of law of any state or territory, or another country;

3. the applicant or licensee enters into a written Consent Order with the board for a license with appropriate restrictions and he timely complies with all the terms of the Consent Order, including making satisfactory progress in the program and adhering to any limitations on the licensee's practice imposed by the board to protect the public; and

4. as part of the Consent Order, the applicant or licensee shall sign a waiver allowing the substance abuse program to release information to the board if the applicant or licensee does not comply with the requirements of the

Consent Order or the program or is unable to practice or work with reasonable skill or safety.

B. Failure to enter into a Consent Order pursuant to this Rule shall precipitate the board's right to pursue formal disciplinary action against the applicant or licensee which may result in denial, suspension, or revocation of a license to practice physical therapy or physical therapist assisting after due notice and hearing.

C. Failure to comply with the requirements of the Consent Order or the substance abuse program or the inability to practice or work with reasonable skill or safety shall result in denial, suspension, or revocation of a license to practice physical therapy or physical therapist assisting after due notice and hearing.

D. The applicant or licensee shall be responsible for any costs associated with the Consent Order and/or the substance abuse program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 28:1981 (September 2002).

Subpart 3. Fees

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees:

- | | |
|------------------------------------|-------|
| 1. Application fee | \$200 |
| 2. Reinstatement fee | \$ 75 |
| 3. Annual Renewal fee | \$115 |
| 4. License Verification | \$ 40 |
| 5. Duplicate Wall
license fee | \$ 50 |
| 6. Duplicate Wallet
license fee | \$ 20 |

B. The annual renewal fee provided in this Rule shall be received by the board office prior to January 1 of each year.

C. If the annual renewal fee is received by the Board office on or subsequent to January 1, the applicant shall apply for reinstatement pursuant to §167 and shall pay the renewal fee and the reinstatement fee.

D. The board may assess reasonable charges with regards to administrative business expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 13:750 (December 1987), LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:963 (September 1992), LR 21:396 (April 1995), LR 28:1982 (September 2002).

Pat Adams
Chairman

0209#055

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Licensure Procedures
(LAC 46:LXXXV.301 and 303)

The Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.301 and 303 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq. The proposed amendments to the Rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§301. Applications for Licensure

A. - B.7. ...

8. Prior to licensure in Louisiana, a foreign veterinary school graduate must provide to the board proof of completion of the Educational Commission for Foreign Veterinary Graduates (ECFVG) program offered through the American Veterinary Medical Association (AVMA) or the Program for the Assessment of Veterinary Education Equivalence (PAVE) program offered through the American Association of Veterinary State Boards (AAVSB).

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982); amended LR 10:464 (June 1984), LR 16:224 (March 1990), LR 19:343 (March 1993), LR 23:964 (August 1997), LR 25:2231 (November 1999), LR 28:1982 (September 2002).

§303. Examinations

A.1. - 3. ...

4. A candidate for examination must be:

a. ...

b. currently enrolled in or certified by the AVMA's ECFVG program or the AAVSB's PAVE program; or

c. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982); amended LR 19:344 (March 1993), LR 19:1327 (October, 1993), LR 23:964 (August, 1997), LR 25:2232 (November 1999), LR 28:1982 (September 2002).

Kimberly B. Barbier
Administrative Director

0209#050

RULE

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

Children's Choice
(LAC 50:XXI.Chapters 111-121)

Editor's Note: The following Subpart has recently been compiled and is being promulgated for codification purposes.

The table below shows the rules compiled to create each Section in Subpart 9, Children's Choice.

Section Number	Rules
§11101	LR 26:2793 (December 2000)
§11301	LR 26:2793 (December 2000), LR 28:1781 (August 2002)
§11303	LR 26:2793 (December 2000)
§11501	LR 26:2793 (December 2000)
§11521	LR 27:310 (March 2001)
§11523	LR 27:310 (March 2001)
§11525	LR 27:310 (March 2001)
§11527	LR 27:310 (March 2001)
§11701	LR 27:1015 (July 2001)
§11703	LR 27:1015 (July 2001)
§11705	LR 27:1015 (July 2001)
§11901	LR 28:1465 (June 2001)
§11903	LR 28:1465 (June 2001)
§11905	LR 28:1465 (June 2001)
§12101	LR 27:310 (March 2001)

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. Eligibility

§11101. Waiver Availability

A. The order of entry is first come, first served from a statewide list arranged by date of application for Mentally Retarded/Developmentally Disabled (MR/DD) waiver services. Families will be given a choice of accepting a slot in the Children's Choice Waiver or remaining on the MR/DD waiver waiting list. The number of participants is contingent on available funding. The Children's Choice Waiver is available to children who are:

1. age from birth through age 18;
2. on the MR/DD Waiver waiting list;
3. meet all the financial and non-financial criteria for Home and Community-Based Services (HCBS) waiver eligibility:

- a. income less than three times the SSI amount for the child (excluding consideration of parental income);
- b. resources less than the SSI resource limit of \$2,000 for a child (excluding consideration of parental resources);
- c. SSI disability criteria;
- d. ICF/MR level of care criteria; and
- e. all Medicaid non-financial requirements such as citizenship, residence, Social Security number, etc.

B. In addition, the plan of care must be sufficient to assure the health and welfare of the waiver

applicant/participant in order to be approved for waiver participation or continued participation.

C. Children who reach their nineteenth birthday while a participant in the Children's Choice Waiver will transfer with their waiver slot to a HCBS waiver serving adults who meet the criteria for an ICF/MR level of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002).

Chapter 113. Service

§11301. Service Cap

A. Children's Choice services are capped at \$15,000 per individual per plan of care year.

B. Participants are eligible to receive all medically necessary Medicaid State Plan services, including EPSDT services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002).

§11303. Service Definitions

A. The services in this §11303 are included in the service package for the Children's Choice Waiver. All services must be included on the approved plan of care which prior authorizes all services.

B. Case management consists of services which will assist individuals who receive children's choice services in gaining access to needed waiver and other State Plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services to which access is gained. Case managers shall be responsible for ongoing monitoring of the provision of services included in the individual's plan of care. Case managers shall initiate the process of assessment and reassessment of the individual's level of care and the review of plans of care as required.

C. Center-based respite is service provided in a licensed respite care facility to individuals unable to care for themselves. These services are furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care.

D. Environmental accessibility adaptations are physical adaptations to the home or vehicle provided when required by the individual's plan of care as necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the community, and without which the individual would require additional supports or institutionalization.

1. Such adaptations to the home may include:

- a. the installation of ramps and grab-bars;
- b. widening of doorways;
- c. modification of bathroom facilities; or
- d. installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies which are necessary for the welfare of the individual.

2. Adaptations which add to the total square footage of the home are excluded from this benefit.

3. All services shall be in accordance with applicable state and local building codes.

4. An example of adaptation to the vehicle is a van lift.

5. Excluded are those adaptations or improvements to the home or vehicle which are of general utility, and are not of direct medical or remedial benefit to the individual, such as carpeting, roof repair, central air conditioning, etc.

E. Family training is defined as training and education for families of recipients that is appropriate to the needs of the child presented by professional organizations or practitioners and individually approved by the Bureau of Community Supports and Services. For purposes of this service, *family* is defined as the persons who live with or provide care to a person served on the waiver, and may include a parent, stepparent, spouse, children, relatives, foster family, legal guardian, or in-laws. Training and education includes reimbursement for travel expenses and registration fees for caregivers to attend approved seminars and similar opportunities for knowledge dissemination when such opportunities are approved as appropriate.

F. Family support services are services provided by a personal care attendant that enables a family to keep their developmentally-disabled child or family member at home and also enhances family functioning. Services may be provided in the child's home or out of the child's home or outside of the child's home in such settings as after school programs, summer camps, or other places as specified in the approved comprehensive plan of care. Family support includes:

1. assistance and prompting with eating, bathing, dressing, personal hygiene, and essential housekeeping incidental to the care of the child, rather than the child's family. The preparation of meals is included, but not the cost of the meals themselves;

2. assistance with participating in the community, including activities to maintain and strengthen existing informal networks and natural supports. Providing transportation to these activities is also included.

G. Diapers are provided for participants who are three years of age and older when necessary for the welfare of the individual and included in the written plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002).

Chapter 115. Providers

Subchapter A. Provider Qualifications

§11501. Case Management Providers and Service Providers

A. Case Management Providers. Families of waiver participants shall choose one case management agency from those contracted with Department of Health and Hospitals (DHH) in their region to provide MR/DD case management services.

B. Service Providers. Agencies licensed to provide personal care attendant services may enroll as a provider of Children's Choice services with the exception of case management services. Agencies that enroll to be a Children's Choice service provider shall provide family support services, and shall either provide or subcontract for all other waiver services. Families of participants shall choose one service provider agency from those available in their region who will provide all waiver services, except case

management. The following individuals shall not be employed or contracted by the service provider to provide services reimbursed through Children's Choice:

1. legally responsible relatives (spouses, parents or stepparents, foster parents, or legal guardians); or

2. any other relatives who live in the same household with the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002).

Subchapter B. Provider Requirements

§11521. General Requirements for Medicaid Enrollment

A. In order to participate in the Medicaid Program, a provider must meet all of the following requirements.

1. The provider must meet all the requirements for licensure as established by state laws and rules promulgated by DHH or the Department of Social Services (DSS).

2. The provider must agree to comply with all the terms and conditions for Medicaid enrollment as contained in:

a. the provider enrollment packet;

b. the Medical Assistance Program Integrity Law (MAPIL), R.S. 46:437.1 - 440.3;

c. the provider agreement;

d. the standards for participation contained in the Children's Choice and Case Management Services provider manuals; and

e. all other applicable federal and state laws, regulations and policies.

3. All services must be appropriately documented in the provider's records.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002).

§11523. Enrollment

A. Both case management and direct services providers must comply with the requirements of this §11523 in order to participate as Children's Choice providers. Agencies will not be added to the Freedom of Choice (FOC) list of available providers maintained by BCSS until they have received a Medicaid provider number.

B. Providers shall attend all mandated meetings and training sessions as directed by BCSS as a condition of enrollment and continued participation as waiver providers. For initial enrollment, providers shall attend the pre-application orientation conducted by BCSS prior to receiving a Provider Enrollment Packet.

C. A separate Provider Enrollment Packet must be completed for each site in each DHH administrative region where the agency will provide services.

D. Recipient case records and billing records shall be housed at the site in the DHH administrative region where the recipient resides.

E. Providers may not refuse to serve any waiver participant that chooses their agency to provide services.

F. Providers shall have available computer equipment and software necessary to participate in prior authorization and data collection as described in the Children's Choice provider manual.

G. Providers shall participate in initial training for prior authorization and data collection. This initial training and any DHH scheduled subsequent training addressing program changes is to be provided at no cost to the agency. Repeat training must be paid for by the requesting agency.

H. Providers shall develop a Quality Improvement Plan which must be submitted for approval within 60 days after the DHH training. Self assessments are due six months after approval of the plan and yearly thereafter.

I. The agency must not have been terminated or actively sanctioned by Medicaid, Medicare or other health-related programs in Louisiana or any other state.

J. The agency must not have an outstanding Medicaid Program audit exception or other unresolved financial liability owed to the state.

K. Providers shall be certified for a period of one year. Re-certification must be completed no less than 60 days prior to the expiration of the certification period.

L. Waiver services are to be provided only to persons who are waiver participants, and strictly in accordance with the provisions of the approved comprehensive plan of care.

M. Changes in the following areas are to be reported to both BCSS and the Provider Enrollment Section in writing at least 10 days prior to any change:

1. ownership;
2. physical location;
3. mailing address;
4. telephone number; and
5. account information affecting electronic funds transfer.

N. The provider must complete a new provider enrollment packet when a change in ownership of 5 percent to 50 percent of the controlling interest occurs, but may continue serving recipients. When 51 percent or more of the controlling interest is transferred, a complete re-certification process must occur and the agency shall not continue serving recipients until the re-certification process is complete.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002).

§11525. Case Management Providers

A. Case management providers must also comply with Paragraphs 1 and 2 of this Subsection A in order to participate as Children Choice providers.

1. Providers of case management services for the Children's Choice Program must have a contract with DHH to provide services to waiver participants.

2. Case management agencies must meet all requirements of their contract in addition to the requirements contained in the Children's Choice and Case Management Services provider manuals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1985 (September 2002).

§11527. Direct Service Providers

A. Direct service providers must also comply with this §11527 in order to participate as Children Choice providers.

1. The provider must be licensed as a personal care attendant agency by the DSS Bureau of Licensing.

2. Direct service providers must provide, at a minimum, family support and crisis support services.

3. The following services may either be provided directly by the direct service provider or by written agreement (subcontract) with other agents. The actual provider of the service, whether it is the direct service provider or a subcontracted agent, shall meet the following licensure or other qualifications.

a. Center-based respite must be provided by a facility licensed by DSS Bureau of Licensing as a center-based respite agency.

b. Family training must be provided at approved events.

c. Diapers must be provided by the enrolled direct service provider.

d. Environmental adaptations must be provided by an individual/agency deemed capable to perform the service by the recipient's family and the direct service provider agency. When required by state law, the person performing the service must meet applicable requirements for a professional license. When building code standards are applicable, modifications to the home shall meet such standards.

4. Providers shall maintain a 24-hour toll-free telephone number manned by a person and shall provide a written plan to the recipients, families and case managers that explains how workers can be contacted and the expected response time.

5. Providers shall develop and provide brochures to interested parties that documents the agency's experience, toll-free telephone number, BCSS information, Helpline, and other pertinent information. All brochures are subject to BCSS approval prior to distribution.

6. Agencies must provide services consistent with the personal outcomes identified by the child and his/her family.

7. All personnel who are at a supervisory level must have a minimum of one year verifiable work experience in planning and providing direct services to people with mental retardation or other developmental disabilities.

8. The agency shall document that their employees and the employees of subcontractors do not have a criminal record as defined in 42 CFR 441.404(b) which states, "Providers of community supported living arrangements services:

a. do not use individuals who have been convicted of child abuse, neglect, or mistreatment, or of a felony involving physical harm to an individual; and

b. take all reasonable steps to determine whether applications for employment by the provider have histories indicating involvement in child or client abuse, neglect, or mistreatment, or a criminal record involving physical harm to an individual."

9. Direct service providers who contract with other agencies to provide waiver services shall maintain copies of such contracts signed by both agencies. Such contracts must state that the subcontractor may not refuse to serve any waiver participant referred to them by the enrolled direct service provider agency.

10. Direct service providers and subcontractors shall maintain written internal policy and procedure manuals that comply with the requirements contained in the Children's Choice provider manual.

11. Enrollment of direct service providers is contingent on the submission of a complete application packet, verified by a site visit conducted by BCSS staff as described in the Children's Choice provider manual.

12. Service delivery shall be documented with progress notes on recipient status, supports provided that address personal outcomes, recipient responses, etc. Progress notes shall be dated and signed in ink. Whiteout is not to be used in making corrections.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1985 (September 2002).

Chapter 117. Crisis Provisions

§11701. Participation in Children's Choice

A. Families must choose to either accept Children's Choice services or remain on the MR/DD Waiver request for services registry. This is an individual decision based on a family's current circumstances. In the event that a family chooses Children's Choice for their child and later experiences a crisis that increases the need for paid supports to a level that cannot be accommodated within the service cap specified in §11301.A on waiver expenditures, they may request consideration for a crisis designation. A crisis is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children's Choice. The procedure in this Chapter has been developed to address these situations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1986 (September 2002).

§11703. Crisis Designation Criteria

A. In order to be considered a crisis, one of the following circumstances must exist:

1. death of the caregiver with no other supports (i.e., other family) available; or
2. the caregiver is incapacitated with no other supports (i.e., other family) available; or
3. the child is committed to the custody of the Department of Health and Hospitals (DHH) by the court; or
4. other family crisis with no caregiver support available, such as abuse/neglect, or a second person in the household becomes disabled and must be cared for by same caregiver, causing inability of the natural caregiver to continue necessary supports to assure health and safety.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1986 (September 2002).

§11705. Crisis Extension Provisions

A. Additional services (crisis support) outside of the waiver cap amount may be approved by the Bureau of Community Supports and Services (BCSS) state office. Crisis designation is time limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months initially, and for subsequent periods of up to three months.

B. When the crisis designation is extended at the end of the initial duration (or at any time thereafter), the family may request the option of returning the child's name to the original application date on the MR/DD Waiver request for services registry when it is determined that the loss of the caregiver and lack of natural or community supports will be long term or permanent. This final determination will be made by BCSS. Eligibility and services through Children's Choice shall continue as long as the child meets eligibility criteria.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1986 (September 2002).

Chapter 119. Noncrisis Provisions

§11901. General Provisions

A. Restoring the recipient to the MR/DD request for services registry under non crisis "good cause" provisions will allow that individual to be placed in the next available waiver slot that will provide the appropriate services, provided the recipient is still eligible when a slot becomes available. The fact that the recipient is being restored to the request for services registry does not require that the department immediately offer him/her a waiver slot if all slots are filled or to make a slot available to this recipient for which another recipient is being evaluated, even though that other recipient was originally placed on the request for services registry on a later date. Waiver services will not be terminated as a result of a recipient's name being restored to the registry.

B. If another MR/DD waiver would provide the recipient with the services at issue, the department may place the recipient in any waiver that would provide the appropriate services.

C. In the event that the waiver eligibility, other than for the MR/DD waiver, of a person who elected or whose legal representative elected that they receive services under the Children's Choice Waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the request for services registry for the MR/DD Waiver in the date order of the original request.

D. If and when a new "capped" adult waiver is adopted, a Children's Choice participant aging out of that program will be evaluated for both the capped waiver and the MR/DD Waiver, and transferred to the waiver whose services are most appropriate for them at that time, with a right of appeal of the department's decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1986 (September 2002).

§11903. Good Cause

A. A person who has elected or whose legal representative has elected that they receive services under Children's Choice waiver shall be allowed to restore his or her name to the request for services registry for the MR/DD Waiver in original date order, when they meet all of the following criteria:

1. he/she would benefit from the services that are available in the MR/DD waiver, but are not actually

available to him or her through their current waiver or through Medicaid State Plan services; and

2. he/she would qualify for those services under the standards utilized for approving and denying the services to the MR/DD Waiver participants; and

3. there has been a change in circumstances since his or her enrollment in the Children's Choice waiver that causes these other services to be appropriate. The change does not have to be a change in the recipient's medical condition, but can include loss of in-home assistance through a caretaker's decision to take on or increase employment, or to obtain education or training for employment. (Note: The temporary absence of a caretaker due to a vacation is not considered "good cause."); and

4. the person's original request date for the MR/DD waiver has been passed on the request for services registry.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1986 (September 2002).

§11905. Determination Responsibilities and Appeals

A. The Bureau of Community Supports and Services (BCSS) shall have the responsibility for making the determinations as to the matters set forth in this Chapter 119. Persons who have elected or whose legal representatives have elected that they receive services under the Children's Choice waiver have the right to appeal any determination of the department as to matters set forth in this Chapter 119, under the regulations and procedures applicable to Medicaid fair hearings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002).

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. Case management services shall be reimbursed at a flat monthly rate billed for each waiver participant served in accordance with the conditions and procedures contained in the Case Management Services provider manual.

B. Direct service providers shall be reimbursed according to the following reimbursement methodology. Actual rates will be published in the Children's Choice provider manual and will be subsequently amended by direct notification to the affected providers. For services provided by a subcontractor agency, the enrolled direct service provider shall reimburse the subcontractor according to the terms of the contract and retain the administrative costs.

1. Family support, crisis support and center-based respite services shall be reimbursed at a flat rate per half-hour unit of service, which covers both service provision and administrative costs.

2. Family training shall be reimbursed at cost plus a set administrative add-on per training session.

3. Environmental modifications shall be reimbursed at cost plus a set administrative add-on per project.

4. Diapers shall be reimbursed at cost plus a set monthly administrative add-on.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002).

0209#017

RULE

Department of Public Safety and Corrections Gaming Control Board

Compulsive and Problem Gambling
(LAC 42:III.301, 303, 304, VII.2933, Chapter 37,
IX.2939, Chapter 37, XIII.2933, and Chapter 37)

The Louisiana Gaming Control Board hereby adopts LAC 42:III.301 et seq.; and repeals LAC 42:VII.2933, VII.Chapter 37, IX.2939, IX.Chapter 37, XIII.2933, and XIII.Chapter 37 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 3. Compulsive and Problem Gambling

§301. Problem Gambling Programs

A. As used in this Section *licensee* shall mean all persons licensed or otherwise authorized to conduct gaming operations pursuant to the provisions of Chapters 4, 5, and 7 of the Louisiana Gaming Control Law, R.S. 27:1 et seq., including the Casino Operator and Casino Manager, but not including persons licensed pursuant to Chapter 6 of the Louisiana Gaming Control Law.

B. The Casino Operator or Casino Manager and each licensee shall post or provide written materials concerning the nature and symptoms of problem gambling in conspicuous places within the gaming establishment in or near gaming areas and areas where cash or credit is made available to patrons, including cash dispensing machines.

C. The Casino Operator or Casino Manager and each licensee shall post one or more signs, as approved by the Division, at points of entry to casino gaming establishments to inform customers of the toll free telephone number available to provide information and referral services regarding compulsive or problem gambling. The toll free number shall be provided by the division.

D. Failure by the Casino Operator or Casino Manager or a licensee to comply with the provisions of Subsections B or C above shall constitute violations of this Section. The penalty for violation of Subsection B or C shall be \$1,000 per day or administrative action including but not limited to suspension or revocation.

E.1. The Casino Operator or Casino Manager and all licensees shall develop a comprehensive program for its property or properties, that address, at a minimum, the areas of concern described in R.S. 27:27.1.C which are designed to:

a. provide procedures designed to prevent employees from willfully permitting a person identified on a self-exclusion list from engaging in gaming activities at the licensed establishment or facility;

b. provide procedures to offer employee assistance programs or equivalent coverage. The procedures shall be designed to provide confidential assessment and treatment

referral for gaming employees and, if covered, their dependents who may have a gambling problem;

c. provide procedures for the development of programs to address issues of underage gambling and unattended minors at gaming facilities;

d. provide procedures for the training of all employees that interact with gaming patrons in gaming areas to report suspected problem gamblers to supervisors who shall be trained as provided in this Paragraph. The training shall, at a minimum, consist of information concerning the nature and symptoms of compulsive and problem gambling behavior and assisting patrons in obtaining information about compulsive and problem gambling and available options for seeking assistance with such behavior;

e. provide procedures designed to prevent serving alcohol to intoxicated gaming patrons consistent with the provisions of R.S. 26:931 et seq.;

f. provide procedures for removing self-excluded persons from the licensed establishment or facility, including, if necessary, procedures that include obtaining the assistance of the division or local law enforcement;

g. provide procedures preventing any person identified on the self-exclusion list from receiving any advertisement, promotion, or other targeted mailing after ninety days of receiving notice from the board that the person has been placed on the self-exclusion list;

h. provide procedures for the distribution or posting within the gaming establishment of information that promotes public awareness about problem gambling and provides information on available services and resources to those who have a gambling problem;

i. provide procedures for the distribution of responsible gaming materials to employees;

j. provide procedures for the posting of local curfews or laws and prohibitions, if any, regarding underage gambling and unattended minors;

k. provide procedures to prevent any person placed on the self-exclusion list from having access to credit or from receiving complimentary services, check cashing services, and other club benefits;

l. provide procedures designed to prevent persons from gaming after having been determined to be intoxicated for the purposes of R.S. 27:27.1.C.(5).

2. The Casino Operator or Casino Manager and each licensee shall designate personnel responsible for implementing and monitoring the program.

3. In addition to the areas of concern described in R.S. 27:27.1.C, the comprehensive program shall also include a program that allows patrons to self-limit their access to functions and amenities of the gaming establishment, including but not limited to, the issuance of credit, check cashing or direct mail marketing.

F. The Casino Operator or Casino Manager and each licensee shall submit the comprehensive program to the board for approval within one hundred twenty days from the date this rule becomes effective as required by R.S. 27:27.1.C.

G. Upon approval, the Casino Operator, Casino Manager and all casino gaming licensees shall comply with their respective comprehensive compulsive and problem gambling programs submitted to the board.

H. Sanctions

1. Failure by any licensee, the Casino Operator or Casino Manager to comply with LAC 42:III.301.F shall constitute a violation. The penalty for violation of LAC 42:III.301.F shall be \$1,000 per day or administrative action including but not limited to suspension or revocation.

2. Failure by any licensee, the Casino Operator or Casino Manager to comply with any provision of the programs approved by the board shall constitute a violation of LAC 42:III.301.G. The penalty shall be \$5000 for the first offense, \$10,000 for the second offense and \$20,000 for the third offense. The penalty for fourth and subsequent offenses shall be \$20,000 or administrative action including but not limited to suspension or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1987 (September 2002).

§303. Persons Required to be Excluded

A. Pursuant to R.S. 27:27.2, the Louisiana Gaming Control Board hereby provides for the establishment of a list of persons who are to be excluded or ejected from any room, premises, or designated gaming area of an establishment where gaming is conducted pursuant to Chapters 4, 5, and 7 of the Louisiana Gaming Control Law, R.S. 27:1 et seq.

B. Definitions. The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise.

Board Excluded Person Any person who has been placed on the board exclusion list by preliminary or final order of the board or division where applicable, and who is required to be excluded or ejected from a casino gaming establishment pursuant to the Louisiana Gaming Control Law.

Board Exclusion List A list of names of persons who, pursuant to R.S. 27:27.2, are required to be excluded or ejected from casino gaming establishments.

Candidate Any person whose name is included in a petition to place such person on the board exclusion list pursuant to the Louisiana Gaming Control Law.

Career or Professional Offender Any person who, in an occupational manner or context, engages in methods and activities that are deemed criminal violations or contrary to the public policy of this state for the purpose of economic gain.

Casino Gaming Establishment Any room, premises, or designated gaming area of any establishment where gaming is conducted pursuant to Chapters 4, 5, and 7 of the Louisiana Gaming Control Law.

Cheat Any person whose act or acts in any jurisdiction would constitute any offense under R.S. 14:67.18.

Occupational Manner or Context The systematic planning, administration, management, or execution of an activity for financial gain.

C. Criteria for Exclusion

1. The board exclusion list may include any person who meets any of the following criteria:

a. a career or professional offender whose presence in a casino gaming establishment would be adverse to the interests of the state of Louisiana or to authorized gaming therein;

b. an associate of a career or professional offender whose association is such that his or her presence in a casino gaming establishment would be adverse to the interests of the state of Louisiana or to authorized gaming therein;

c. a person who has been convicted of a gaming or gambling crime or a crime related to the integrity of gaming operations;

d. a person who has performed any act or has a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, but not limited to, being identified with criminal activities in published reports of various federal and state legislative and executive bodies that have inquired into criminal activities. Such bodies shall include, but not be limited to, the following:

- i. California Crime Commission;
 - ii. Chicago Crime Commission;
 - iii. McClellan Committee (Senate Subcommittee on Investigation);
 - iv. New York Waterfront Commission;
 - v. Pennsylvania Crime Commission Report;
 - vi. Senate Permanent Subcommittee on Investigations;
 - vii. State of Colorado Organized Crime Strike Force; or
 - viii. President's Commission on Organized Crime;
- e. has been named or is currently on any valid exclusion list of any other jurisdiction;

f. is a person whose presence in a casino gaming establishment would be adverse to the state of Louisiana or authorized gaming therein, including, but not limited to:

- i. cheats;
- ii. persons whose gaming privileges, permits, licenses, or other approvals have been suspended, revoked or denied;
- iii. persons who pose a threat to the safety of the patrons or employees of the Casino Operator or Casino Manager or any casino gaming licensee;
- iv. persons with a documented history of conduct involving the disruption of the gaming operations in any jurisdiction;
- v. persons subject to an order of a Louisiana court excluding such persons from any casino gaming establishments; or
- vi. persons with pending charges for a gaming or gambling crime or a crime related to the integrity of gaming operations;

g. for purposes of Subsection C.1 above:

i. a person's presence may be considered "adverse to the interest of the state of Louisiana or to authorized gaming therein" if known attributes of such person's character and background:

(a). are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of licensed gaming;

(b). could reasonably be expected to impair the public perception of, and confidence in, the strict regulation of gaming activities; or

(c). would create or enhance a risk or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto;

ii. a finding that a person's presence is "adverse to the interest of the state of Louisiana or to authorized gaming therein" may be based upon, but not limited to, the following:

(a). the nature and notoriety of the attributes of character or background of the person;

(b). the history and nature of the involvement of the person with authorized gaming in Louisiana or any other jurisdiction, or with any particular licensee or licensees or any related company thereof;

(c). the nature and frequency of any contacts or associations of the person with any licensee or licensees, or with any employees or agents thereof; or

(d). any other factor reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry, and its employees;

iii. race, color, creed, national origin or ancestry, sex or disability as defined in R.S. 51:2234.(11), shall not be a reason for placing the name of any person upon such list.

D. Duties of the Division

1. The division shall, on its own initiative, or upon recommendation by the board, investigate any individual who would appear to be an appropriate candidate for placement on the board exclusion list.

2. If, upon completion of an investigation, the division determines that an individual should be placed on the board exclusion list, the division shall make a recommendation for exclusion to the board, identifying the candidate and setting forth the basis for which the division believes the candidate satisfies the criteria for exclusion established by the Louisiana Gaming Control Law.

E. Notice

1. Upon a determination by the board that one or more of the criteria for being named on the list are satisfied, such person shall be placed on the board exclusion list. The board or division shall serve notice of exclusion in the matter prescribed in R.S. 27:27.2.C. The notice shall:

a. identify the excluded person by name, including known aliases, and last known address;

b. specify the nature and scope of the circumstances or reasons for such person's exclusion;

c. inform the excluded person of his right to request a hearing for review and/or removal;

d. inform the excluded person that the failure to timely request a hearing shall result in the decision's becoming final.

F. Contents of the Board Exclusion List

1. The following information shall be provided for each board excluded person:

a. the full name of the person and any known aliases the person is believed to have used;

b. a description of the person's physical appearance, including height, weight, build, color of hair and eyes, and any other physical or distinguishing characteristics that may assist in identifying the person;

c. the date of birth of the person;

d. the date of the notice mandating exclusion;

e. the driver's license number or state identification number of the person;

f. a photograph of the person, if available and the date taken;

- g. the person's occupation and his current home and business address; and
- h. social security number, if available;
- i. the reason for exclusion.

G Maintenance and Distribution of the List

1. The board shall maintain a list of persons to be excluded or ejected from all casino gaming establishments.
2. The list shall be open to public inspection except information pertaining to the date of birth, driver's license number, state identification number, social security number and current home and business address of the board excluded person.
3. The list shall be distributed by the division to the Casino Operator or Casino Manager and all casino gaming licensees.
4. No casino gaming licensee, the Casino Operator or Casino Manager or any employee, or agent thereof shall disclose the date of birth or current home or business address of a board excluded person to anyone other than employees or agents of casino gaming licensees whose duties and functions require access to such information.

H. Duties of the Casino Operator or Casino Manager and casino gaming licensees

1. The Casino Operator or Casino Manager, casino gaming licensees and their agents or employees shall exclude or eject the following persons from the casino gaming establishment:

- a. any board excluded person; or
- b. any person known to the Casino Operator or Casino Manager or any casino gaming licensee to satisfy the criteria for exclusion in the Louisiana Gaming Control Law.

2. If a board excluded person enters, attempts to enter, or is in the casino gaming establishment and is discovered by the Casino Operator or Casino Manager or any casino gaming licensee, the Casino Operator or Casino Manager or casino gaming licensee shall immediately notify the division of such fact and, unless otherwise directed by the division, immediately eject such excluded person from the casino gaming establishment.

3. Upon discovery of a board excluded person in the casino gaming establishment, both the security and surveillance departments of the Casino Operator, Casino Manager and casino gaming licensees shall initiate a joint investigation, unless otherwise directed by the division, to determine:

- a. responsibility of employees of the casino gaming establishment for allowing a board excluded person to gain access to the casino gaming establishment; and
- b. the net amount of winnings and/or losses attributable to the board excluded person.

4. The Casino Operator, Casino Manager, and each casino gaming licensee shall take reasonable steps to ensure that no winnings or losses arising as a result of prohibited casino gaming activity are paid or recovered by a board excluded person.

5. It shall be the continuing duty of the Casino Operator, Casino Manager, and each casino gaming licensee to inform the board and division in writing of the names of persons it knows or has reason to know are appropriate for placement on the board exclusion list.

I. Sanctions

1. Any casino gaming licensee, Casino Operator or Casino Manager who willfully fails to exclude a board excluded person from the casino gaming establishment shall be in violation of these rules and may be subject to administrative action pursuant to R.S. 27:27.2.F and this Section.

2. The penalty for violation of LAC 42:III.303.C.7.a shall be \$25,000 or administrative action including but not limited to suspension or revocation.

J. Removal from the Board Exclusion List

1. Hearing. Any person who desires to have his name removed from the board exclusion list shall submit a written request to the board requesting a hearing before a hearing officer.

2. Absent. A change in circumstances that would have affected the board exclusion No person shall request a hearing to be removed from the board exclusion list for a period of five years from the date of the final decision.

AUTHORITY NOTE: Promulgated in accordance with RS. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1988 (September 2002).

§304. Self-Exclusion

A. Pursuant to R.S. 27:27.1, the Louisiana Gaming Control Board hereby provides for the establishment of a list of persons who, at his or her request, are to be excluded or ejected from all casino gaming establishments licensed or operating pursuant to Chapters 4, 5, and 7 of the Louisiana Gaming Control Law, R.S. 27:1 et seq.

B. Definitions

1. The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise.

Casino Gaming Establishment Any room, premises, or designated gaming area of any establishment where gaming is conducted pursuant to Chapters 4, 5, and 7 of the Louisiana Gaming Control Law.

Self-Excluded Person Any person whose name is included, at his or her request, on the self-exclusion list maintained by the board.

Self-Exclusion List Ca list of names of persons who have voluntarily agreed to be excluded from all gaming activities and to be prohibited from collecting any winnings or recovering any losses at all licensed casino gaming establishments.

C. Request for Self-Exclusion

1. Any person may have his or her name placed on the self-exclusion list by submitting a request for self-exclusion in the form and manner required by this Section.

2. Any person requesting placement on the self-exclusion list shall submit, in person, a completed request for self-exclusion as required in Paragraph C.4 below. The request shall be delivered to an Office of State Police, Casino Gaming Division. Any person submitting a self-exclusion request shall be required to present valid identification credentials. Any person requesting self-exclusion pursuant to this Section shall be required to have his or her photograph taken by a division agent upon submission of the request.

3. No person placed on the self-exclusion list may request removal for a period of five years from the date the person is placed on the self-exclusion list.

4. A request for self-exclusion shall be in a form prescribed by the board. Such form shall include:

a. identifying information concerning the person submitting the request for self-exclusion, as follows:

i. name, including any known aliases or nicknames;

ii. date of birth, driver's license or state identification number, if available;

iii. current home and business address;

iv. telephone number of current residence;

v. Social Security number, which information is voluntarily provided in accordance with Section 7 of the Privacy Act, 5 U.S.C. § 552(a); and

vi. a physical description of the person, including height, weight, gender, hair color, eye color, and any other physical or distinguishing characteristics that may assist in the identification of the person;

vii. the date of exclusion;

b. a waiver and release which shall release, forever discharge, indemnify and hold harmless the state of Louisiana, the Louisiana Gaming Control Board ("Board"), the Louisiana Department of Public Safety and Corrections, Office of State Police ("State Police"), the Department of Justice, Office of the Attorney General ("Attorney General's Office"), all casino gaming licensees, the Casino Operator and Casino Manager and their members, agents, and employees, from any liability to the person requesting self-exclusion and his or her heirs, administrators, executors and assigns for any harm, monetary or otherwise, which may arise out of or by reason of any act or omission relating to the request for self-exclusion, request for removal from the self-exclusion list, or removal from the self-exclusion list, including:

i. processing or enforcement of the request for self-exclusion, request for removal or removal from the self-exclusion list;

ii. the failure of the Casino Operator or Casino Manager or a casino gaming licensee to withhold gaming privileges from, or restore gaming privileges to, a self-excluded person;

iii. permitting a self-excluded person to engage in gaming activity in a licensed casino gaming establishment while on the list of self-excluded persons; and

iv. disclosure of the information contained in the self-exclusion request or list, except for a willful unlawful disclosure of such information;

c. the following statement signed by the person submitting the request for self-exclusion:

"I understand and read the English language or have had an interpreter read and explain this form. I am voluntarily requesting exclusion from all gaming activities at all Louisiana casino gaming establishments because I am a compulsive and/or problem gambler. I certify that the information that I have provided above is true and accurate, and that I have read, understand, and agree to the waiver and release included with this request for self-exclusion. I am aware that my signature below authorizes the Board or the State Police to direct all Louisiana casino gaming licensees, including the Casino Operator and Casino Manager, to restrict my gaming activities and access to casino gaming establishments for a minimum period of five years from the

date of exclusion. During such period of time, I will not attempt to enter any casino gaming establishment. I further understand that my name will remain on the self-exclusion list until 1) I submit a written request to the board to terminate my self-exclusion; 2) a hearing is held; and 3) there is a written decision of the Board determining that there is no longer a basis for me to be maintained on the list. I am aware that I cannot request removal from the list before five years have elapsed from the date of exclusion. I am aware and agree that during any period of self-exclusion, I shall not collect in any manner or proceeding any winnings or recover any losses resulting from any gaming activity at any casino gaming establishment and that any money or thing of value obtained by me from, or owed to me by, the Casino Operator, Casino Manager, or a casino gaming licensee as a result of wagers made by me while on the self-exclusion list shall be withheld and remitted to the state of Louisiana."

d. the type of identification credentials examined containing the signature of the person requesting self-exclusion, and whether the credentials included a photograph of the person; and

e. the signature of a board or division member, agent, or employee authorized to accept such request, indicating that the signature of the person on the request for self-exclusion appears to agree with that contained on his or her identification credentials and that any photograph or physical description of the person appears to agree with his or her actual appearance.

5. Upon receipt and acceptance of the request for self-exclusion and completion and submission of all required information and documentation the requesting party shall be placed on the self-exclusion list by the division.

D. Self-Exclusion List

1. The board shall maintain a list of persons who, at his or her request, are excluded and are to be ejected from all casino gaming establishments.

2. The list shall not be open to public inspection.

3. The list shall be distributed by the division to the Casino Operator or Casino Manager and each casino gaming licensee who shall acknowledge receipt of the list in writing. The division shall notify the Casino Operator, Casino Manager and all casino gaming licensees of the addition of new names and removal of names from the self-exclusion list within two business days of the effective date of such action.

4. The Casino Operator or Casino Manager and each casino gaming licensee shall maintain a copy of the self-exclusion list and shall establish procedures to ensure that the self-exclusion list is updated and that all appropriate members, employees and agents of the Casino Operator or Casino Manager and each casino gaming licensee are notified of any addition to or deletion from the list within five business days after receipt of the notice from the division. Appropriate members, employees, and agents of the Casino Operator or Casino Manager and each casino gaming licensee are those whose duties and functions require access to such information. The notice provided by the division shall include the name and date of birth of any person whose name shall be removed from the self-exclusion list and the following information concerning any person whose name shall be added to the self-exclusion list:

a. name, including any known aliases or nicknames;

b. date of birth;

c. address of current residence;

d. telephone number of current residence;

- e. Social Security number, if voluntarily provided by the person requesting self-exclusion;
- f. driver's license or state identification number;
- g. a physical description of the person, including height, weight, gender, hair color, eye color and any other physical or distinguishing characteristic that may assist in the identification of the person; and

h. a copy of the photograph taken by the division.

5. Information furnished to or obtained by the board and division pursuant to this Section shall be deemed confidential and not be disclosed pursuant to R.S. 27:27.1.

6. Neither the Casino Operator, Casino Manager, nor any casino gaming licensee or any employee or agent thereof shall disclose the self-exclusion list or the name of, or any information about, any person who has requested self-exclusion to anyone other than employees and agents of the Casino Operator or Casino Manager or casino gaming licensee whose duties and functions require access to such information. Notwithstanding the foregoing, the Casino Operator or Casino Manager and each casino licensee may disclose the name of and information about a self-excluded person to appropriate employees of other casino licensees in Louisiana for the purpose of alerting other casinos that a self-excluded person has tried to gamble or obtain gaming related privileges or benefits in a casino gaming establishment. Nothing herein shall be construed to prohibit the licensee from disclosing the identity of self-excluded persons to affiliated entities in Louisiana and other gaming jurisdictions for the limited purpose of assisting in the proper administration of compulsive and problem gaming programs operated by such affiliated entities.

E. Duties of the Casino Operator, Casino Manager, and each Casino Gaming Licensee

1. The Casino Operator or Casino Manager and each casino gaming licensee shall establish procedures that are designed, to the greatest extent practicable, to:

a. permit appropriate employees of the Casino Operator or Casino Manager and the casino gaming licensee to identify a self-excluded person when present in the casino gaming establishment and, upon such identification, immediately notify:

i. those employees of the Casino Operator or Casino Manager and the casino gaming licensee designated to monitor the presence of self-excluded persons; and

ii. appropriate representatives of the board and division;

b. refuse wagers from and deny any gaming privileges to any self-excluded person;

c. deny casino credit, check cashing privileges, player club membership, direct mail and marketing services complimentary goods and services, junket participation and other similar privileges and benefits to any self-excluded person;

d. enforce the provisions of LAC 42:III.304.D.6.

2. The Casino Operator or Casino Manager and each casino gaming licensee shall distribute a packet of written materials approved by the Division to any person inquiring or requesting information concerning the board's self-exclusion program.

3. The Casino Operator or Casino Manager and each casino licensee shall submit to the board for approval a copy of its procedures established pursuant to LAC 42:III.304.D.4

and E.1 above within 120 days from the date this rule becomes effective. Any amendments to said procedures shall be submitted to the board and approved prior to implementation.

4. If a self-excluded person enters, attempts to enter, or is in the casino gaming establishment and is discovered by the Casino Operator or Casino Manager or any casino gaming licensee, the Casino Operator or Casino Manager or casino gaming licensee shall immediately notify the division of such fact and, unless otherwise directed by the division, immediately eject such excluded person from the casino gaming establishment.

5. Upon discovery of a self-excluded person in the casino gaming establishment, both the security and surveillance departments of the Casino Operator, Casino Manager and casino gaming licensees shall initiate a joint investigation, unless otherwise directed by the division.

a. The joint investigation shall seek to determine:

i. responsibility of employees of the gaming establishment for allowing an excluded person to gain access to the casino gaming establishment; and

ii. the net amount of winnings or losses attributable to the excluded person.

b. The Casino Operator or Casino Manager and each casino gaming licensee shall provide a written report of the results of the joint investigation to the division.

6. The casino gaming establishment shall ensure that no winnings or losses arising as a result of prohibited gaming activity are paid or recovered by a self-excluded person.

F. Sanctions

1. Any casino gaming licensee, Casino Operator, or Casino Manager who willfully fails to exclude a self-excluded person from the casino gaming establishment shall be in violation of these rules and may be subject to administrative action pursuant to R.S. 27:27.1.J and this Section.

2. The penalty for violation of LAC 42:III.304.F.1 shall be \$25,000 or administrative action including but not limited to suspension or revocation.

G. Removal from Self-Exclusion List

1. Any self-excluded person may, upon the expiration of five years from the date of exclusion, submit a written request to the board for a hearing to have his or her name removed from the self-exclusion list. Such request shall be in writing and state with specificity the reason for the request.

2. The request shall include a written recommendation from a qualified mental health professional as to the self-excluded person's capacity to participate in gaming activities without adverse risks or consequences. The person seeking removal from the self-exclusion list may be required to obtain a separate and independent recommendation from a qualified mental health professional, approved by the hearing officer, as to the self-excluded person's capacity to participate in gaming activities without adverse risks or consequences.

3. If the hearing officer determines that there is no longer a basis for the person seeking removal to be maintained on the self-exclusion list, the person's name shall be removed from the self-exclusion list and his or her exclusion shall be terminated. The division shall notify the

Casino Operator or Casino Manager and all casino gaming licensees of the determination. The Casino Operator, Casino Manger or any casino gaming licensee may continue to deny gaming privileges to persons who have been removed from the list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1990 (September 2002).

**Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

Chapter 29. Operating Standards

§2933. Compulsive or Problem Gamblers-Telephone Information and Referral Service-Posting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000), repealed LR 28:1993 (September 2002).

Chapter 37. List of Excluded Persons

Chapter 37 is repealed in its entirety.

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2939. Compulsive or Problem Gamblers-Telephone Information and Referral Service-Posting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1954 (October 1999), repealed LR 28:1993 (September 2002).

Chapter 37. List of Excluded Persons

Chapter 37 is repealed in its entirety.

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2933. Compulsive or Problem Gamblers Telephone Information and Referral Service-Posting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), repealed LR 28:1993 (September 2002).

Chapter 37. List of Excluded Persons

Chapter 37 is repealed in its entirety.

Hillary J. Crain
Chairman

0209#020

RULE

**Department of Public Safety and Corrections
Corrections Services
Office of Adult Services**

Adult Administrative Remedy Procedure (LAC 22:I.325)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:1171 et seq., Corrections Administrative Remedy Procedure, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby

adopts amendments to the Adult Administrative Remedy Procedure to provide for a period of 90 days from the date of the incident to file the request for remedy rather than 30 days.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§325. Adult Administrative Remedy Procedure

A. - A.1. ...

2. Inmates are encouraged to continue to seek solutions to their concerns through informal means, but in order to insure their right to use the formal procedure, they should make their request to the warden in writing within a 90 day period after an incident has occurred. If, after filing in the formal procedure an inmate receives a satisfactory response through informal means, the inmate may request (in writing) that the warden cancel his formal request for an administrative remedy.

A.3. - G.1. ...

a. The inmate commences the process by writing a letter to the warden, in which he briefly sets out the basis for his claim, and the relief sought (refer to section "Procedure-Initiation of Process" [Subsection F] for the requirements of the letter). The inmate should make a copy of his letter of complaint and retain it for his own records. The original letter will become a part of the process, and will not be returned to the inmate. The institution is not responsible for furnishing the inmate with copies of his letter of complaint. This letter should be written to the warden within 90 days of an alleged event. (This requirement may be waived when circumstances warrant. The warden, or his designee, will use reasonable judgment in such matters.) The requests shall be screened by the ARP Screening Officer and a notice will be sent to the inmate advising that his request is being processed or is being rejected. The warden may assign another staff person to conduct further fact-finding and/or information gathering prior to rendering his response. The warden shall respond to the inmate within 40 days from the date the request is received at the First Step.

G.1.b. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 28:857 (April 2002), LR 28:1993 (September 2002).

Richard L. Stalder
Secretary

0209#067

RULE

**Department of Public Safety and Corrections
Corrections Services
Office of Adult Services**

Juvenile Administrative Remedy Procedure (LAC 22:I.326)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:1171 et

seq., Corrections Administrative Remedy Procedure, and the Administrative Procedure Act, R.S. 49:950 et seq., has amended the Administrative Remedy Procedure to provide for a period of 90 days from the date of the incident to file the request for remedy rather than 30 days.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§326. Juvenile Administrative Remedy Procedure

A. - E.1. ...

2. Informal Resolution. Offenders are encouraged to resolve their problems within the institution informally, before initiating the formal ARP process. This informal resolution may be sought by talking to his case manager, counselor, or other staff member. An attempt at informal resolution does not affect the timeframe for filing an ARP; therefore, the offender and staff member assisting with informal resolution must be alert to the 90 calendar day filing timeframe so that the opportunity to file an ARP is not missed when it appears that the situation will not be informally resolved before the expiration of the filing period.

3. - 3.a. ...

b. The offender has 90 calendar days after the incident occurred in which to file a complaint. The ARP is considered "filed" upon receipt by the ARP Coordinator or designee. This includes those ARPs placed in the ARP or grievance box over the weekend or on a legal holiday. The ARP forms shall be available at designated sites at each institution and from case managers.

c. - d. ...

e. Offenders released from secure care prior to filing their ARP should send the ARP directly to the ARP Coordinator. The ARP must be postmarked within 90 days or received within the 90 calendar day timeframe, if not mailed.

4. - 4.b. ...

c. There has been a time lapse of more than 90 calendar days between the event and receipt of the initial request.

d. The date of the event is not on the form. In this case, the form will be returned to the offender to have the correct date noted, however, the original 90 day time limit will still apply.

E.4.e. - F. ...

1. The offender will begin the process by completing the first part of a Juvenile ARP Form, which will briefly set out the basis for the claim and the relief sought. The form must be submitted within 90 calendar days of the incident which caused the grievance. The 90-day requirement may be waived by the warden when circumstances warrant, i.e., if the offender is ill for an extended period of time or if a significant, unusual event affects the offender's ability to file the ARP. The offender may also request a five calendar day extension from the ARP Coordinator if additional time is needed to prepare the ARP.

F.2. - J.2. ...

3. The offender shall then have the normal 90 calendar day deadline from the date the incident occurred or seven calendar days from the date he receives the rejection

(whichever is longer) to submit his request through regular channels beginning with step one.

K. - L.2. ...

3. Discharged Offenders. If an offender is discharged before the review of an ARP, or if he files an ARP after discharge, the institution will complete the processing and will notify the offender at his last known address. (The 90 calendar day timeframe in which to file an ARP applies regardless of whether the offender has been discharged from secure care.)

L.4. - M. ...

N. Juvenile ARP Form

DPS&CCORRECTIONS SERVICES Number: _____ - _____ - _____
JUVENILE ARP FORM Date Received: _____
Name: _____ JIRMS Number: _____
Institution: _____ Housing Unit: _____

"THIS IS A REQUEST FOR ARP"

(You may ask your case manager or other staff members for help completing this form.)

State your problem (WHO, WHAT, WHEN, WHERE AND HOW) and the remedy requested (what you want to solve the problem):

Problem: _____

Remedy requested: _____

Date of Incident: _____ Today's Date: _____

This form must be completed within 90 calendar days of the date of the incident and given to the ARP Coordinator or placed in the ARP/grievance box.

Step One CARP Coordinator's Review and Warden's Response
(Maximum Time For Processing: 21 calendar days)

_____ Denied _____ Rejected _____ Returned _____ Accepted Date: _____

Reason: _____

_____ Handled Informally By _____

AC's Recommendation:

Sent to Warden on: _____ AC's Signature: _____

Warden's response to your ARP Step One request: _____

Date: _____ Warden's Signature: _____

If you are not satisfied with this response, you may go to Step Two.

The ARP Coordinator must submit your request to the Secretary within 10 calendar days after you receive the Step One response.

Received Step One on: _____ Juvenile's Signature: _____

Request Step Two: yes no Reason for Step Two request: _____

Date Step Two request received by AC: _____ Date Sent to Secretary: _____

AC's Signature: _____

Step Two C Secretary's Response

(Maximum Time For Processing: 21 calendar days)

Date Received:

Secretary's response to ARP Step Two request: _____

Date: _____ Secretary's Signature

Date received Secretary's response: _____ Juvenile's Signature

If you are not satisfied with this response, you may seek judicial review. A request for judicial review must be submitted to the court within 30 calendar days after receiving the Step Two decision.

O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 28:861 (April 2002), amended LR 28:1994 (September 2002).

Richard L. Stalder
Secretary

0209#068

RULE

**Department of Revenue
Policy Services Division**

**Corporation Franchise Tax-Surplus and Undivided Profits
(LAC 61:I.305)**

Under the authority of R.S. 47:605.A, R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.305 relative to adjustments by regulated companies for depreciation sustained but not recorded.

Louisiana Revised Statute 47:605.A states that "When, because of regulations of a governmental agency controlling the books of a taxpayer, the taxpayer is unable to record on its books the full amount of depreciation sustained, the taxpayer may apply to the collector of revenue for permission to add to its reserve for depreciation and deduct from its surplus the amount of depreciation sustained but not recorded, and if the collector finds that the amount proposed to be so added represents a reasonable allowance for actual depreciation, he shall grant such permission." By amending LAC 61:I.305, the Department of Revenue provides guidance concerning the conditions under which adjustments for depreciation sustained but not recorded can be made.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 3. Corporation Franchise Tax

§ 305. Surplus and Undivided Profits

A. - B.3. ...

C. Adjustment by regulated companies for depreciation sustained but not recorded. When, because of regulations of a governmental agency controlling the books of a taxpayer, the taxpayer is unable to record on its books the full amount of depreciation sustained, the taxpayer may apply to the collector of revenue for permission to add to its reserve for depreciation and deduct from its surplus the amount of depreciation sustained but not recorded, and if the collector finds that the amount proposed to be so added represents a reasonable allowance for actual depreciation, he shall grant such permission.

1. Permission to add to depreciation reserves and reduce surplus must be requested in advance and shall be granted only in those instances in which a governmental agency requires that the books of the corporation reflect a depreciation method under which the total accumulated depreciation reflected on the books is less than would be

reflected if the straight-line method of depreciation had been applied from the date of acquisition of the asset. The period over which depreciation shall be computed shall be the expected useful life of the asset.

2. The amount of adjustment shall be the amount of accumulated depreciation which would be reflected on the books if the straight-line method had been applied from the date of acquisition of the asset, less the amount of accumulated depreciation actually reflected on the books.

3. Permission granted by the secretary shall be automatically revoked upon a material change in the facts and circumstances presented by the taxpayer.

4. Permission granted by the secretary shall be for a period of six years, at which time the taxpayer must reapply for permission to continue making the adjustment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:605 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), LR 28:1995 (September 2002).

Cynthia Bridges
Secretary

0209#056

RULE

**Department of Social Services
Office of Community Services**

**Low-Income Home Energy Assistance and Weatherization
Assistance Programs (LAC 67:V.Chapters 5 and 9)**

The Department of Social Services, Office of Community Services amended the Louisiana Administrative Code, Title 67, Part V, Subpart 2, Chapter 5 and Chapter 9, to delete the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program from its array of administered programs. Act 702 of the 2001 Regular Legislative Session transferred authority to administer the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program from the Department of Social Services, Office of Community Services, to the Louisiana Housing Finance Agency. This became effective on July 1, 2001. The programs themselves are not being repealed, but moved under a different governmental entity.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 2. Community Services

**Chapter 5. Low Income Home Energy Assistance
Program**

This Chapter has been repealed in its entirety.

Chapter 9. Weatherization Assistance Program

This Chapter has been repealed in its entirety.

Gwendolyn P. Hamilton
Secretary

0209#064

RULE

**Department of Social Services
Office of Family Support**

Teen Pregnancy Prevention Program
Expanding Targeted Groups
(LAC 67.III.5403 and 5405)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 14, Teen Pregnancy Prevention. These amendments are necessary to further the goal of *Keeping It R.E.A.L.*, Louisiana's Teen Pregnancy Prevention Program, to reduce the number of unwed pregnant and parenting teens.

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency has expanded the targeted groups of participants from 11-19 years to 8-21 years.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 14. Teen Pregnancy Prevention

Chapter 54. Teen Pregnancy Prevention Program

§5403. Strategy

A. - B.3 ...

C. There are three target groups involved in reducing teen pregnancy:

- 1. 8-21 year old students and non-students;
- 2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1996 (September 2002).

§5405. Goals and Objectives

A. The program objective is to create community, faith- and school-based programs which will present age-appropriate educational material to a targeted population ranging in age from 8-21 years. This includes elementary, middle, high school, and college students and others in this age group who are no longer in school. All services are provided by contracted providers.

B. To reduce the number of births, intermediate goals are established according to age groups.

1. For the children aged 8-13 (grades 3-8), the following intermediate goals have been set:

a. - 2.g. ...

3. For teenagers and young adults aged 17-21 (upper high school, college, non-students, current teen parents), the same goals in §5405.B.2 will apply with the addition of the following:

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1996 (September 2002).

Gwendolyn P. Hamilton
Secretary

0209#074

RULE

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

Alligator Tag Fee (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby suspend a portion of the alligator tag fee.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. - 3. ...

4. Licenses, Permits and Fees

a. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

i. - x. ...

xi. \$4 for each alligator hide tag; provided however, that this Commission does hereby suspend the collection of \$2 of the \$4 tag fee. This suspension shall commence in September 2002 and continue for a period of 2 years or until such time this commission takes further action, whichever occurs first;

4.a.xii. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263, and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002).

Thomas M. Gattle, Jr.
Chairman

0209#040

RULE

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

Cypress Lake and Black Bayou Reservoir Netting
Prohibition (LAC 76:VII.195)

The Wildlife and Fisheries Commission hereby establishes the following rule on commercial netting in Cypress Lake and Black Bayou Reservoir in Bossier Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§195. Cypress Lake and Black Bayou Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of gill nets, trammel nets, and fish seines in Cypress Lake and Black Bayou Reservoir, Bossier Parish, Louisiana.

B. Effective with this prohibition, no person shall possess any gill net, trammel net or fish seine while on the

waters of Cypress Lake or Black Bayou Reservoir. In addition, no person shall take, possess or sell any fish, which was taken with a gill net, trammel net or fish seine from Cypress Lake or Black Bayou Reservoir.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:1997 (September 2002).

Thomas M. Gattle, Jr.
Chairman

0209#039

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Eligible Lists and Promotions

The State Civil Service Commission will hold a public hearing on October 9, 2002 to consider the following Rule proposals. The hearing will begin at 9 a.m. and be held in the auditorium of the Claiborne Building at 1201 North Third Street, Baton Rouge, Louisiana. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the Director of State Civil Service at P.O. Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

Current Rule

7.17 Establishment of Eligible Lists

(a) The director shall, subject to the Rules, establish eligible lists from the results of Civil Service examinations. Such lists shall contain the names of all candidates who pass the related examinations.

(b) Eligibles shall be ranked on such lists in the relative order of the rating, including preference points, if any.

Proposed New Rule

7.17(c) The director may authorize agencies to establish and make appointments from eligible lists for promotions, original probationary appointments and job appointments using guidelines established by the director. When making appointments from in-house certificates under authority of this rule, agencies shall follow the same procedures as used for Civil Service certificates as described in Rule 8.9 "Appointment of Eligibles from Certificates."

Proposed Amendment to Rule

8.20 Promotion

(a) Except as provided in paragraph (g) below, and subject to the provisions of Rules 8.9(a) and 8.9(c), each promotion shall be made by appointing one of the eligibles within the five highest final grade groups on a promotional certificate issued by the Director or by an agency as authorized under Rule 7.17(c) following competitive examination; or by the designation of a permanent employee for noncompetitive promotion and authorization thereof by the director.

(b) In preparing a promotional certification from a register of eligibles established following a competitive promotional examination, the director or an agency as authorized under Rule 7.17(c) shall certify the names of the highest ranking eligibles in the relative order of their standing on the register.

(c) In preparing a promotional certification from a register of eligibles established following a competitive promotional examination, the Director or an agency as

authorized under Rule 7.17(c) shall certify only those eligibles employed with permanent status within the promotional area established in accordance with the provisions of Rule 7.9(a)(2) of these Rules and shall certify them in the relative order of their standing on the register.

(d) The Director or an agency as authorized under Rule 7.17(c) shall not include in any promotional certification the name of an employee having a current official overall Performance Planning and Review rating of "Poor" or "Needs Improvement"; nor shall he authorize the noncompetitive promotion of any such employee.

Explanation

Delegation and local discretion is a fundamental part of the Department's ASCEND 2020 program whereby Civil Service partners with agencies to fulfill merit system goals in a manner that is more efficient and effective. Part of this program is to move toward a system where applicants apply directly to agencies for each specific vacancy rather than having Civil Service maintain standing registers and issuing certificates with lots of unavailable names. In some cases applicants may be required to obtain Civil Service test or Experience and training scores before applying to the agency. In other cases, agencies may be authorized by the Director to administer an in-house selection procedure to score applicants. In either case, the agency will create its own certificate of the names of persons who apply to that specific vacancy. This will reduce availability problems and speed turnaround time in filling vacancies. Current rules do not allow agencies to create their own certificates or make appointments from them. This Rule will provide the necessary authorization.

Allen H. Reynolds
Director

0209#075

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Adult Education Programs Section
(LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed change of the age requirement for entering Adult Education programs will allow 16-year-old students, under certain conditions of waiver, to pursue adult education training in preparation for testing for the GED. The

conditions of waiver for students to exit school to enroll in Adult Education programs are in response to Act 59 of the First Extraordinary Session of the 2002 Legislature.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education in LR 27:694-695 (May 2001), LR 27:695-702 (May 2001), LR 27:815-820 (June 2001), LR 27:1005 (July 2001), LR 27:1181, 1182, 1183 (August 2001), LR 27:1512 (September 2001), LR 27:1674 (October 2001), LR 27:1832, 1833, 1840 (November 2001), LR 27:2086, 2095 (December 2001), LR 28:269, 272 (February 2002), LR 28:1724 (August 2002), LR 28:

Bulletin 741C Louisiana Handbook for School Administrators

1.124.00 The Adult Education program shall be administered by the State Department of Education (SDE) and operated by eligible entities as stipulated in Title II of the Workforce Investment Act. The State Department of Education shall certify adult education sites of instruction using procedures as approved by the State Board of Elementary and Secondary Education.

Refer to the Louisiana State Plan for Adult Education and R.S. 17:14 for administration of the program.

The parent, tutor, or other person responsible for the school attendance of a child who is under the age of 18 and who is enrolled in school beyond his sixteenth birthday may request a waiver from the local superintendent for the child to exit school to enroll and attend an adult education program approved by SBESE. In the case of a child with no parent, tutor, or other person responsible for his school attendance, the local school superintendent may act on behalf of the student in making such a request if one or more of the following hardships exist and if appropriate documentation is on file at the local school board office:

- pregnant or actively parenting
- incarcerated or adjudicated
- institutionalized or living in a residential facility
- chronic physical or mental illness
- family and/or economic hardships

The local school superintendent or his/her designee may approve the request without requesting action from the State Board of Elementary and Secondary Education (SBESE). If the request to exit school to enroll in a SBESE approved adult education program is denied at the local level, a student may request the waiver from the Department of Education for approval by the SBESE with documentation of reason for denial at the local level.

* * *

Interested persons may submit written comments until 4:30 p.m., November 9, 2002, to Nina A. Ford, Board of

Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook
for School Administrators C Adult
Education Programs Section**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revision will change the age students who meet specific SBESE-approved criteria may enter the Adult Education program. Implementation costs to the state governmental unit will consist of the cost of notifying LEAs and eligible entities of the rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state/local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed change is being requested to expedite the acquisition of the GED for allowable candidates to pursue employment options or further educational opportunities.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0209#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Department of Veterans Affairs**

Veterans=Home Nursing Care Resident Fee
(LAC 4:VII.943)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 29:383, the Department of Veterans Affairs proposes to amend LAC 4:VII.943.A pertaining to nursing care resident fee charged at Louisiana State Veterans Homes. This proposed action is being taken to comply with nursing care fee changes approved by the Veterans Affairs Commission, effective July 1, 2002. This Rule will have no effect on family formation, stability, autonomy, family functioning, earnings and budget, or on the rights of parents, or on the behavior or responsibility of children.

**Title 4
ADMINISTRATION**

Part VII. Governor=s Office

**Chapter 9. Veterans Affairs
Subchapter A. Veterans= Home**

§943. Nursing Care Resident Fee

A. Patients will be allowed to retain the first \$90 per month for personal spending and appropriate deduction(s) for any legal dependent(s) as specified in §941.C, effective

July 1, 2002. All remaining income must be applied to the care and maintenance fee until maximum care cost is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:383.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 28:

Interested persons may submit written comments on the proposed amendment by 4:30 p.m., October 11, 2002, to David C. Perkins, Deputy Assistant Secretary, P.O. Box 94095, Capitol Station, Baton Rouge, LA 70804-9095.

David Perkins
Deputy Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Veterans- Home Nursing Care
Resident Fee**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs (savings) to state or local governmental units if the proposed amendment is approved.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The increase in the personal spending allowance will decrease revenue collections to the Louisiana State War Veterans' Homes by \$30 per month for those residents who do not have the ability to pay the maximum monthly care and maintenance fee. This amount will fluctuate but will have a minimum impact on self-generated revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Current and future residents of Louisiana Veterans' Homes will directly benefit from the rule amendment by receiving \$90 per month for personal spending, effective July 1, 2002, which represents an increase of \$30.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment if the proposed amendment is approved.

David C. Perkins
Deputy Assistant Secretary
0209#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Patient's Compensation Fund Oversight Board**

Eligible Healthcare Providers, Practice Groups and
Qualification and Enrollment in the Fund
(LAC 37:III.109, 111, 303, 507, 509, 511,
515, 517, 519, 701, 705, 711, 715, 901, 1101,
1401, 1403, 1405, 1501, 1503, 1505, and 1507)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the

Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 37:III as follows, to provide additional definitions of eligible healthcare providers, practice groups, and the information required to be furnished to the Oversight Board for qualification and enrollment in the Fund, clarifies the procedure for withdrawal of a security furnished as proof of financial responsibility, clarifies the annual renewal process for enrolled healthcare providers, clarifies the surcharge risk rating for hospitals, clarifies the methods of evidencing financial responsibility to be consistent with current practices, sets forth the requirements of a malpractice complaint, clarifies the requirement to select an attorney-chairman prior to dismissal of a malpractice complaint, and clarifies the authority of the executive director.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these proposed rule amendments on the family has been considered. These proposed amendments have no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Title 37
INSURANCE**

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

§109. General Definitions

A. - A.3. ...

* * *

- i. is currently actively involved in medical practice and/or providing medical services in Louisiana; and
- ii. has paid the appropriate surcharge for such practice to the fund for their current policy year.

Qualified Provider Any provider who has met the statutory requirements for malpractice coverage with the Louisiana Patient's Compensation Fund. Qualified providers may be currently either active or inactive in the practice of medicine in Louisiana, depending on the dates for which they are qualified. So long as the financial responsibility requirements for continued qualification are met, a provider need not be currently enrolled in the PCF.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:168 (February 1992), amended LR 23:68 (January 1997), LR 28:

§111. Interpretive Definitions

A. As used in these rules and in the act, the following terms are interpreted and deemed to have the meanings specified.

Certified Nurse Assistant Ca certified nurse aide certified by the Board of Examiners of Nursing Facility Administrators, pursuant to R.S. 37:2504, as amended.

* * *

Nursing Home Ca private home, institution, building, residence or other place, licensed or provisionally licensed by the Department of Health and Hospitals, pursuant to R.S. 40:2009.2, as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:168 (February 1992), amended LR 28:

Chapter 3. Organization, Functions, and Delegations of Authority

§303. Executive Director of the Patient's Compensation Fund Oversight Board

A. - B.7. ...

8. coordination of the defense and disposition of claims against the fund;

9. payment of judgments, settlements, arbitration awards, and medical expenses;

B.10. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:169 (February 1992), amended LR 28:

Chapter 5. Enrollment with the Fund

§507. Financial Responsibility: Self-Insurance

A. ...

B. For purposes of §507, upon approval by the board of an application filed by the group, any group of health care providers organized to and actually practicing together or otherwise related by ownership, whether as a corporation, partnership, limited liability partnership or limited liability company, shall be deemed a single health care provider and shall not be required to post more than one deposit. Proof of such status may include a notarized copy of the articles of incorporation, partnership agreement, articles of organization, joint or consolidated entity tax returns, or other documents demonstrating the ownership relation among or between the members of the group, or other evidence which indicates that the members of the group actually practice together for the purpose of health care delivery. This proof of group status shall be submitted to the board (1) with the group's original application; (2) within 30 days of any change in the group's status, organization, or membership; and, (3) within 10 calendar days of receipt of a written demand therefor from the board. It shall be insufficient for qualification under this rule if a group is organized solely or primarily for the purpose of qualifying for enrollment with the fund.

C.1. - 2. ...

3. In addition to depositing the money or original instrument evidencing the approved security with the board, a self-insured health care provider shall be required to execute a Pledge Agreement prescribed and supplied by the executive director and to provide evidence that written notice, stating that the approved security will be pledged to the board pursuant to the terms of the Pledge Agreement, has been given to the issuing body.

D. - F. 1. ...

a. the self-insured health care provider shall, within 90 days of notice of a claim and no less than every 90 days thereafter, submit a proposed reserve amount to the executive director, along with appropriate supporting documentation. Unless rejected by the executive director within 30 days of receipt, the reserve amount submitted shall be deemed approved. If a reserve amount is rejected timely, the self-insured health care provider may, within 15 days, submit a new reserve amount or appeal the rejection of the executive director. If appealed timely, the matter shall be

placed on the agenda of the next meeting of the board, at which time the board may accept the proposed reserve, establish a new amount, or defer action for further information. The decision of the board shall be final;

F.1.b. - 2. ...

G. In the event that a health care provider's deposit becomes impaired, he shall have five days to make such additional deposit as will restore the minimum deposit value prescribed by §507. A health care provider's enrollment and qualification with the fund for all claims filed against the healthcare provider shall terminate on and as of the last day set by these Rules if the health care provider has not on, or prior to such date, restored the minimum deposit value prescribed by §507. In the case of multiple health care providers, as set forth in §507.B, the enrollment and qualification with the fund of each member of the group or each related entity for all claims filed against any or all of the members of the group or related entity shall terminate on and as of the last day set by these rules if the minimum deposit value prescribed by §507 has not been restored on or prior to such date.

H. ...

I.1. A self-insured health care provider who has evidenced financial responsibility pursuant to §507 may withdraw the deposit prescribed by §507 upon authorization of the executive director. The security furnished as proof of financial responsibility, or a substitution which has been approved by the board, shall remain on deposit and pledged to the board during the term of the health care provider's enrollment as a self-insured health care provider with the fund and for the longer of a three-year period following termination of such enrollment or as long as any medical malpractice claim is pending, whether with the board or in a court of competent jurisdiction. After this time period, authorization may be given when the health care provider files with the executive director, not less than 30 days prior to the date such withdrawal is to be effected, a certificate, signed and verified under oath by the health care provider, certifying:

a. the date the health care provider terminated enrollment with the fund as a self-insured health care provider;

b. that there are no medical malpractice claims pending with the board or in a court of competent jurisdiction;

c. that there are no unpaid final judgments or settlements against or made by the health care provider in connection with or arising out of a malpractice claim; and

d. that there are no unasserted medical malpractice claims which are probable of assertion against the health care provider.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:171 (February 1992), amended LR 18:737 (July 1992), LR 23:68 (January 1997), LR 28:

§509. Financial Responsibility: Self-insurance Trusts

A. - B.2. ...

3. In addition to depositing the money or original instrument evidencing the approved security with the board, a self-insured trust shall be required to execute a Pledge

Agreement prescribed and supplied by the executive director and to provide evidence that written notice, stating that the approved security will be pledged to the board pursuant to the terms of the Pledge Agreement, has been given to the issuing body.

C. - K. ...

L.1. A self-insurance trust which has evidenced financial responsibility pursuant to §509 may withdraw the deposit prescribed by §509 upon authorization of the executive director. The security furnished as proof of financial responsibility, or a substitution which has been approved by the board, shall remain on deposit and pledged to the board during the term of the trust's members' enrollments as self-insured health care providers with the fund and for the longer of a three-year period following termination of such enrollment or as long as any medical malpractice claim is pending against the trust or any of its members, whether with the board or in a court of competent jurisdiction. After this time period, authorization may be given when the trust files with the executive director, not less than 30 days prior to the date such withdrawal is to be effected, a certificate, signed and verified under oath by the trustee of the trust, certifying:

- a. the date that the last remaining member(s) of the trust terminated enrollment with the fund as self-insured health care provider(s);
- b. that there are no medical malpractice claims against the trust or any of its members pending with the board or in a court of competent jurisdiction;
- c. that there are no unpaid final judgments or settlements against or made by the trust or any of its members in connection with or arising out of a malpractice claim; and
- d. that there are no unasserted medical malpractice claims which are probable of assertion against the trust or any of its members.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:172 (February 1992), amended LR 18:737 (July 1992), LR 23:69 (January 1997), LR 28:

§511. Coverage: Partnerships and Professional Corporations

A. When, and during the period that, each shareholder, partner, member, agent, officer, or employee of a corporation, partnership, limited liability partnership, or limited liability company, who is eligible for qualification as a health care provider under the act, and who is providing health care on behalf of such corporation, partnership, or limited liability company, is enrolled with the fund as a health care provider, having paid the applicable surcharges due the fund for enrollment of such individual, such corporation, partnership, limited liability partnership, or limited liability company shall, without the payment of an additional surcharge, be deemed concurrently qualified and enrolled as a health care provider with the fund.

B. The corporation, partnership, limited liability partnership, or limited liability company shall furnish to the board concurrently with its enrollment and renewal applications the name(s) of each shareholder, partner, member, agent, officer, or employee who is eligible for

qualification and enrollment with the fund as a health care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 28:

§515. Certification of Enrollment

A. ...

B. Duplicate or additional certificates of enrollment shall be made available by the executive director to and upon the request of an enrolled health care provider or his or its attorney, or professional liability insurance underwriter when such certification is required to evidence enrollment or qualification with the fund in connection with an actual or proposed malpractice claim against the health care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 23:69 (January 1997), LR 28:

§517. Expiration, Renewal of Enrollment

A. Enrollment with the fund terminates:

1. as to a health care provider evidencing financial responsibility by certification of insurance pursuant to §505 of these rules, on and as of:

- a. the effective date and time of termination of the policy period of the health care provider's professional liability insurance coverage; or
- b. the last day of the applicable period for which the annual surcharge applies in the event that the annual surcharge for renewal coverage is not paid by the health care provider to the insurer on or before 30 days following the termination of the enrollment period.

A.2. ...

B. Enrollment with the fund must be annually renewed by each enrolled health care provider on or before termination of the enrollment period by submitting to the executive director an application for renewal, upon forms supplied by the executive director, and payment of the applicable surcharge in accordance with the rules hereof providing for the fund's billing and collection of surcharges from insured and self-insured health care providers. Each insured health care provider shall cause the insurer to submit a certificate of insurance to the executive director along with the application for renewal. Each self-insured health care provider and each health care provider covered by a self-insurance trust shall submit, along with the application for renewal, original documents which indicate that the health care provider's deposit with the board is current and/or not in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), amended LR 28:

§519. Cancellation, Termination of Enrollment

A. A health care provider's enrollment with the fund for all claims filed against the healthcare provider shall be canceled and terminated:

1. as to a health care provider evidencing financial responsibility by certification of insurance pursuant to §505 of these rules, on and as of the effective date of cancellation

of the health care provider's professional liability insurance coverage;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), LR 28:

Chapter 7. Surcharges

§701. PCF Consulting Actuary

A. - B.1. ...

2. advising the executive director with respect to the establishment, maintenance, and adjustment of reserves on individual claims against the fund and the establishment, maintenance, and adjustment of reserves for incurred but not reported claims;

3. - 6. ...

7. generally advising and consulting with the executive director on all actuarial questions affecting the administration, operation, and defense of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), amended LR 28:

§705. Risk Rating

A. Surcharge rates collected by the fund shall be based on and classified according to the classes and categories of health care liability risks underwritten by the fund with respect to each class of health care practitioners and institutions eligible for enrollment with the fund. With regard to hospitals, surcharge rates collected by the fund shall be based on the annual average number of occupied beds. Risk classifications and ratings adopted by the fund shall be based on actuarial analysis of the claims experience of health care provider groups enrolled with the fund and equivalent data and practices of commercial insurance underwriters and self-insurance funds insuring such groups. Risk rating classifications for health care providers eligible for enrollment with the fund shall be based on Louisiana claims experience data, including the PCF's own claims experience, unless the PCF's actuary affirmatively demonstrates that, as respects any class of provider, reasonably obtainable, competent, and credible Louisiana claims experience data provides an insufficient basis for such classifications under generally accepted insurance actuarial standards, in which case regional or national claims experience data and statistics relative to such classes of health care provider may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 28:

§711. Payment of Surcharges: Insurers

A. Applicable surcharges for enrollment and qualification with the fund shall be collected on behalf of the fund by commercial professional health care liability insurance companies and approved self-insurance trust funds from insured health care providers electing to enroll and qualify with the fund. Such surcharges shall be collected by such insurers and funds at the same time and on the same basis as such insurers' and fund's collection of premiums or contributions from such insureds. Surcharges collected by

such insurers and funds on behalf of the fund shall be due and payable and remitted to the fund by such insurers and funds within 45 days from the date on which such surcharges are collected from any insured health care provider.

B. Annual surcharges for renewal coverage due the fund by insured health care providers whose surcharges are collected by insurers and funds for enrollment and qualification with the fund shall be due and payable to the collecting insurers and funds on or before 30 days following the termination of the enrollment period to which the surcharge applies. Remittance of surcharges to the fund by the insurers and funds shall be made in such form and accompanied by records in such forms or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted surcharges and the identity and class of health care providers on whose behalf such surcharges are remitted. Such insurers and funds remitting surcharges to the fund shall certify to the fund, at the time of remitting such surcharge to the fund, the date that the surcharges were collected by them from the health care providers. The payment of surcharges by an approved self-insurance trust that does not collect premiums or contributions from insureds will be governed by §713 hereof.

C. Failure of the commercial professional health care liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to remit payment within 45 days of collecting such annual surcharge shall subject the commercial professional liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to a penalty of 12 percent of the annual surcharge and all reasonable attorney's fees. Upon the failure of the commercial professional health care liability insurers, commercial insurance underwriters and approved self-insurance trust funds to remit as provided in §711, the board may institute legal proceedings to collect the surcharge, together with penalties, legal interest, and attorney's fees.

D. If the instrument used to pay the surcharge is returned to the fund by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the fund. If the surcharge is not paid in full by certified check, cashier's check, money order, or cash equivalent funds received by the fund within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the fund shall be terminated as of the end of the previous enrollment period.

E. It is the purpose of §711 that insurers and approved self-insurance trust funds remit surcharges collected from their insured providers to the fund timely. The timeliness of surcharge remittances to the fund by insurers and approved self-insurance trust funds shall not affect the effective date of fund coverage. However, the failure of insured health care providers to timely remit applicable surcharges to insurers and approved self-insurance trust funds for renewal may result in lapses of coverage with the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:69 (January 1997), LR 28:

§715. Amount of Surcharges; Form of Coverage; Conversions

A. A health care provider qualified for enrollment by evidence of liability insurance pursuant to §505, or by evidence of participation in an approved self-insurance trust pursuant to §509, shall pay the fund surcharge amount in the most recently approved rate filing which is applicable to his provider type, years enrolled in the fund, and which most closely corresponds to the class and form of coverage of said primary liability insurance or self-insurance trust. The form of coverage provided by the fund shall be identical to that provided by the qualifying policy of insurance or self-insurance except where the policy conflicts with applicable law or regulation.

B. ...

C.1. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase occurrence coverage from or discontinue enrollment in the fund, he shall not have coverage afforded by the fund for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a deposit with the board pursuant to §507 and pays, on or before 30 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

2. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase self-insured coverage from the fund, he shall not have coverage afforded for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage, unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a second deposit with the board pursuant to §507 and pays, on or before 30 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

3. In special circumstances, the board may, at its discretion, waive the payment of an additional surcharge and allow tail coverage to a provider without the payment of the applicable-surcharge. Each such case requires an individual written request for relief to the board, and will be decided on individual circumstances. The board's criteria for such decisions shall include, but not be limited to:

C.3.a - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 23:69 (January 1997), amended LR 28:

Chapter 9. Scope of Coverage
§901. Effective Date

A. A health care provider who qualifies for enrollment with the fund by demonstrating financial responsibility through professional liability insurance pursuant to §505 of these Rules, shall be deemed to become and be enrolled with the fund effective as of the date on which the surcharge payable by or on behalf of such health care provider is timely collected in accordance with §711 hereof and the

applicable policies and procedures of the insurer for premium payments. If such surcharge is not timely collected, the effective date of enrollment with the fund shall be the date on which such surcharge is paid to the fund is collected or accepted by the insurer.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299-44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 23:70 (January 1997), LR 28:

Chapter 11. Reporting
§1101. Reporting of Claims, Reserves, Proposed Settlement

A. - C. ...

D. Within 20 days of the receipt of a malpractice claim against an enrolled health care provider in the form of a lawsuit, the health care provider, or the health care provider's liability insurer, shall furnish a copy of the lawsuit to the PCF. The health care provider, or the health care provider's liability insurer, shall also furnish to the PCF within 20 days of receipt, a copy of all amending pleadings related to the lawsuit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:177 (February 1992), amended LR 28:

Chapter 14. Medical Review Panels
§1401. Procedure

A. Except as otherwise provided by the act, all malpractice claims against health care providers shall be reviewed by a medical review panel. The composition and operation of a medical review panel shall be in accordance with R.S. 40:1299.47.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 28:

§1403. Malpractice Complaint

A. A "request for review of a malpractice claim" or "malpractice complaint" shall contain, at a minimum:

1. a request for the formation of a medical review panel;
2. name of the patient;
3. name(s) of the claimant(s);
4. name(s) of defendant health care providers;
5. date(s) of alleged malpractice;
6. brief description of alleged malpractice; and
7. brief description of alleged injuries.

B. The request for review of a malpractice claim shall be deemed filed on the date of receipt of the complaint stamped and certified by the board or on the date of mailing of the complaint if mailed to the board by certified or registered mail.

C. Within 15 days of receiving a malpractice complaint, the board shall:

1. confirm to the claimant that the malpractice complaint has been officially received and whether or not the named defendant(s) are qualified for the malpractice claim; and
2. notify all named defendant(s) that a malpractice complaint requesting the formation of a medical review

panel has been filed against them and forward a copy of the malpractice complaint to each named defendant at his last and usual place of residence or his office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 28:

§1405. Attorney Chairman

A. An attorney chairman of a medical review panel is to be chosen by the parties according to R.S. 40:1299.47.C. An attorney chairman must be secured within two years from the date the request for review of the claim was filed. If, after two years, an attorney chairman has not been secured, the board shall send notice by certified mail to the claimant or the claimant's attorney stating that the claim will be dismissed after 90 days if no attorney chairman is appointed. If no attorney chairman is appointed within 90 days of the certified notice, the board shall dismiss the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 28:

Chapter 15. Defense of the Fund

§1501. Claims Defense

A. Through its executive director, the board shall be responsible for the administration and processing of claims against and legal defense of claims against the fund. The executive director shall be responsible, and accountable to the board, for coordination and management of defense of the fund against claims to the extent of the responsibilities imposed on the board by the act. Without limitation on the scope of such responsibility, the executive director shall be specifically responsible for:

1. - 2. ...
3. retaining, subject to qualifications and standards prescribed by the board, and supervising the services of attorneys at law to defend the fund against claims;
4. - 7. ...
8. the discharge and performance of such other duties, responsibilities, functions, and activities as are delegated by the board;
9. all authority for the defense of the fund vested in the board by the Act is hereby delegated to the executive director. In the exercise of such authority, the executive director shall be accountable to, and subject to the superseding authority of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:179 (February 1992), amended LR 28:

§1503. Claims Accounting

A. All expenses incurred in the legal defense, disposition, payment on individual claims, judgments, or settlements shall be accounted for and allocated among such respective claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:179 (February 1992), amended LR 28:

§1505. Claim Reserves

A. Within 10 days of receipt of notice of a claim against or potentially involving liability of the fund, the fund shall

establish a reserve against such claim representing the total amount of compensation and compensation adjustment expenses which the fund is anticipated to be liable for and incur in respect of and allocable to such claim. Reserves respecting individual claims against the fund shall be established in consultation, as appropriate, with legal counsel representing the fund with respect to such claim, with legal counsel for the enrolled health care providers against whom the claim is primarily asserted, and with claims personnel managing such claim for the commercial insurers of the enrolled health care providers against whom the claim is asserted. Reserves respecting individual claims against the fund shall be adjusted from time to time as changing circumstances or evaluations may warrant, and all reserves shall be reviewed not less frequently than quarterly for necessary and appropriate adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:180 (February 1992), amended LR 28:

§1507. Settlement of Claims

A. Claims against the fund may be compromised and settled upon the recommendation of the executive director and the approval of the board. The executive director shall, however, have authority, without the necessity of prior approval by the board, to compromise and settle any individual claim against the fund for an amount not exceeding \$10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:180 (February 1992), amended LR 28:

All interested persons are invited to submit written comments on the amended rules. Such comments should be submitted no later than October 20, 2002 at 4:30 p.m. to Lorraine LeBlanc, Executive Director, Patient's Compensation Fund Oversight Board, 650 North Sixth Street, Baton Rouge, LA 70802 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Suite 301, Baton Rouge, LA 70809.

Lorraine LeBlanc
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Eligible Healthcare Providers, Practice Groups and Qualification and Enrollment in the Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amendments provide additional definitions of eligible healthcare providers, practice groups, and the information required to be furnished to the Oversight Board for qualification and enrollment in the Fund, clarifies the procedure for withdrawal of a security furnished as proof of financial responsibility, clarifies the annual renewal process for enrolled healthcare providers, clarifies the surcharge risk rating for hospitals, clarifies the methods of evidencing financial responsibility to be consistent with current practices, sets forth the requirements of a malpractice complain, clarifies the requirement to select an attorney-chairman prior to dismissal of

a malpractice complaint, and clarifies the authority of the executive director. It is estimated that the costs to implement the proposed rule amendments will not exceed \$2,000. The costs will include printing, copy charges, administrative overhead expenses and legal fees which will be paid by the Patient's Compensation Fund. R.S. 40:1299.44 et seq., from statutorily dedicated funds available in FY 02-03 budget. It is estimated that the annual savings will be \$43,500 as a result of the reduction of expenditures related to its payment to Risk Management.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units from implementation of the proposed rule amendments. Although the method of calculating hospital surcharge rates collected by the Patient's Compensation Fund are being revised in these proposed amendments, there is no estimated effect on revenue collections because the proposed amendments more accurately reflect the actual, actuarial method of determining the hospital surcharge rates.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected persons or non-governmental groups. However, the proposed amendments provide that the failure of insured health care providers to timely remit applicable surcharges to insurers and approved self-insurance trust funds for renewal may result in lapses of coverage with the Patient's Compensation Fund. The proposed amendments requiring health care providers to pay the surcharge applicable to the number of years enrolled in the Patient's Compensation Fund and granting the health care provider the option of posting a security with the Patient's Compensation Fund in lieu of purchasing an extended reporting endorsement from a primary insurer may result in economic benefits to health care providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Patient's Compensation Fund Oversight Board anticipates no effect on either competition or employment as a result of adopting the proposed rule amendments.

Lorraine LeBlanc
Executive Director
0209#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

**Drug Testing for Employees
(LAC 4:VII.1281 and 1283)**

The Governor's Office of Elderly Affairs (GOEA) proposes to adopt the following rule in accordance with R.S. 49:1015 et seq.

The employees are among the state of Louisiana's most valuable resources. The physical and mental well being of these employees is necessary for them to administer their duties. Substance abuse causes serious adverse consequences to users, impacting their productivity, as well as the health or safety of their dependents, co-workers and the general public.

The state of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the

use of illegal drugs by employees of the State of Louisiana, the Louisiana legislature enacted laws, which provide for the creation and implementation of drug testing programs for state employees. Further, the governor of the state of Louisiana issued Executive Order 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001, et seq., and all other applicable federal and state laws.

In accordance with the provisions of Executive Order MJF 98-38, and under the guidance of the Executive Director, this policy shall apply to all employees of the Governor's Office of Elderly Affairs, including appointees or other persons having an employment relationship with this agency.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter G. Drug Testing for Employees

§1281. Definitions

Controlled SubstanceCA drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled substance Act (21 U.S.C. 812)

Designer (Synthetic) DrugsCthose chemical substance that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

EmployeeCunclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

Illegal DrugCany drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable SuspicionCBelief based upon objective an articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive and Security-Sensitive PositionsCall positions with duties that may either authorize or require the operation or maintenance of a public vehicle, or the supervision of such an employee. All positions with duties that may require responsibility for or access to confidential or classified information.

Under the InfluenceCfor the purposes of this policy, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical in maintaining balance. A professional opinion or a scientifically valid test can establish a determination of influence.

WorkplaceCany location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from

which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S.49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:

§1283. Policy Provisions

A General Provisions

1. It shall be the policy of the Governor's Office of Elderly Affairs to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for the Agency with the presence of illegal drugs, controlled substances, or designer (synthetic) drugs in their bodies at the initial testing levels and confirmatory testing levels or above the levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty, or on call for duty.

2. The agency will procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

B. To assure maintenance of a drug-free workforce, it will be the policy of the Governor's Office of Elderly Affairs to implement a program of drug testing under the following conditions.

1. Reasonable Suspicion. Any employee will be required to submit to a drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using drugs.

2. Post-Accident. Each employee involved in an accident which occurs during the course of employment will be required to submit to a drug test if the accident:

- a. involves circumstances leading to a reasonable suspicion of the employee's drug use;
- b. results in a fatality; or
- c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

C. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or has a rehabilitation agreement with the agency following an incident involving substance abuse will be required to submit to random drug testing once every six months until the agency receives documented proof of a release from treatment by the physician or program director.

D. Pre-Employment. Each prospective employee, appointee, and all other persons beginning an employment relationship with the agency will be required to submit to drug screening at the time and place designated by the agency representative who administers the drug testing program, following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

E. Safety-Sensitive and Security-Sensitive Positions. These positions are identified within the agency by the appointing authority of the Governor's Office of Elderly

Affairs and determined to be safety or security-sensitive after consultation with Louisiana Department of Justice.

F. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) may be required to pass a drug test before being placed in such a position, whether through appointment or promotion.

G. Random Testing. Every employee in a safety-sensitive or security-sensitive position will be required to submit to drug testing as required by the appointing authority, who will periodically call for a sample of such employees, selected at random by a computer-generated selection process, and require them to report for testing. All such testing will, if practicable, occur during the selected employee's work schedule.

H. Confidentiality. All information, interviews, reports, statement, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

I. Drug Test Failures. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

1. Pursuant to R.S. 49:1011, the Office of Elderly Affairs will afford an employee whose drug result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment. All rehabilitation must be programs that are approved and listed by the Officer of Alcohol and Drug Abuse for state agencies.

2. An employee whose drug tests results are certified positive will be required to take 30 days leave either as annual (A) or sick (B) leave. All rehabilitation services or assistance will be conducted at the employee's expense. The employer is not responsible for the expenses accrued.

3. Failure to submit to drug testing or rehabilitation services may be reason for termination of employment with agency.

4. The Office of Elderly Affairs is committed to maintaining workplace free of harassment and intimidation for all its employees, and will not tolerate inappropriate actions regarding drug testing and confidential drug testing information. This includes conduct, which has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

J. Responsibility. The Executive Director of the Governor's Office of Elderly Affairs is responsible for the overall compliance with this policy and will submit to the Office of the Governor, through the Commissioner of Administration, a report on the policy and drug testing program, describing process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

K. Violation of the Policy. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule does not affect the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The Rule does not deal with the education or supervision of children and will not make an impact on the family.

3. The Effect of This Rule on the Functioning of the Family. This Rule does not effect the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no impact on family earnings.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule does not deal with children and will not have any impact.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. N/A.

A public hearing on the proposed rule will be held on October 25, 2002 at the Governor's Office of Elderly Affairs, 1st Floor Conference Room, 412 North 4th Street, Baton Rouge, LA beginning at 9 a.m. Interested persons may send in written comments by 4:30 p.m. on October 25, 2002, to Beverly Armstead, Governor's Office of Elderly Affairs, Post Office Box 80374, Baton Rouge, LA 70898. She is responsible for answering any inquiries regarding this proposed Rule.

Paul F. "Pete" Arceneaux
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Drug Testing for Employees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost of implementation for this proposed Rule is \$382 for FY 02-03, \$282 for FY 03-04, and \$282 for FY 04-05. The first year includes the \$100 to pay for publishing this Rule. No saving to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will not affect revenue collections of state or local governmental units

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule outlines the requirements of the state agency in their Drug Testing Policy. It is anticipated that 12 employees which includes new hires and current employees will be tested annually. This proposed Rule will not make any changes in the economic benefits to the elderly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact is minimal. When this Rule is in place and all employees and potential employees are aware of the Rule, the number of employees and potential employees failing the test will likely be minimal. While each case will be handled individually, an employee with a positive drug test may potentially be terminated.

Paul F. "Pete" Arceneaux
Executive Director
0209#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Scopes of Practice, Guidelines for Returning to Active Practice, Advertising and Soliciting by Dentists, Reporting and Record Keeping, Examination of Dentists
(LAC 46:XXXIII.122, 124, 301, 1609, and 1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.122, 124, 301, 1609, and 1709. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§122. Scopes of Practice

A. - B. ...

C. A licensed dentist is recognized as a specialist in Louisiana if the dentist meets the standards set forth below.

1. The licensed dentist seeking specialty recognition must have successfully completed an ADA accredited post-doctoral program for each specialty.

2. The requirements of Paragraph C.1 of this Section shall not apply to otherwise qualified specialists who have announced their ADA approved specialty prior to the date of promulgation of this Rule.

3. Specialists must provide the board with satisfactory documentation of their specialty training.

4. Specialists are required to limit their practice exclusively to the indicated specialty area(s) as defined by the board and its rules.

5. A specialist who wishes to practice general dentistry must be evaluated by the board in accordance with LAC 46:XXXIII.124 to determine the need of remediation prior to practicing general dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:

§124. Guidelines for Returning to Active Practice

A. Section 124 is intended to provide guidelines to enable the board to provide evaluation and remediation to dentists and dental hygienists who have not actively practiced their professions for a sufficient length of time for any reason which would justify various levels remediation to assure the board that the dentist or dental hygienist is sufficiently qualified to again practice on the public. This section applies whether a license has been inactivated or not.

B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:511 (March 1999), amended LR:28

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - C. ...

D. Definitions

Periodontics that specialty of dentistry which encompasses the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes; the maintenance of the health, function and esthetics of these structures and tissues; and the replacement of lost teeth and supporting structures by grafting or implantation of nature and synthetic devices and the materials.

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:

Chapter 16. Continuing Education Requirements

§1609. Reporting and Record Keeping

A. ...

B. The licensee shall retain satisfactory documentation such as certificates of attendance as may be necessary to document completion of the required number of continuing education hours. The board will not give credit unless the licensee can prove attendance at the course and, therefore, shall obtain and retain certificates of attendance. With cause, the board may request such documentation. Without cause the board may request such documentation from licensees selected at random.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 26:489 (March 2000), LR 28:

Chapter 17. Licensure Requirements

§1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board. There shall also be an examination fee set by the Louisiana State University School of Dentistry.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953.A(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scopes of Practice, Guidelines for Returning to Active Practice, Advertising and Soliciting by Dentists, Reporting and Record Keeping, Examination of Dentists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A cost of \$500 is estimated to implement these Rule changes. Notification of these Rule changes will be included in a mass mailing to all licensees. It is anticipated that these Rule changes will be sent to licensees during the summer of 2003.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated economic benefit 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.

C. Barry Ogden
Executive Director
0209#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Temporary Permits
(LAC 46:XLVII.3329)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to amend the Professional and Occupational Standards pertaining to temporary permits to practice as a registered nurse or an advanced practice registered nurse. The proposed amendments of the Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse

Licensure

§3329. Temporary Permits

A. - C. ...

D. A temporary permit to practice as a registered nurse or an advanced practice registered nurse for a maximum period of six months may be issued to an individual enrolled in the clinical practice component of a board approved refresher course for the purpose of RN or APRN licensure reinstatement or licensure endorsement provided that:

1. the individual provides satisfactory evidence that he or she previously held an unencumbered license in Louisiana or another jurisdiction recognized in Louisiana;

2. the individual completes the application form provided by the board;

3. the individual provides satisfactory documentation of enrollment in a refresher course approved by the board in accordance with §3335.D.2.a;

4. the individual pays the licensure fee required by §3341.A.f or 3327.8;

5. there is no evidence of violation of this Part or of LAC 46: XLVII.3331. If information relative to violations of R.S. 37:911, LAC 46:XLVII.3331, or other administrative rules, or an investigation of same, is received during the six month permit interval, the permit shall be recalled and licensure denied until such time as the person completes the disciplinary process; and

6. there is no allegation of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46:XLVII.3403 and 3405. If information relative to such acts or omissions is received during the six month permit interval, the permit shall be recalled and licensure denied until such time as the person completes the disciplinary process.

E. Any individual who receives a temporary permit issued pursuant to Subsection D above shall:

1. practice under the supervision of a licensed registered nurse or advanced practice registered nurse if seeking licensure as an RN or under the supervision of a

licensed advanced practice registered nurse if seeking licensure as an APRN; and

2. be entitled to use the designation RN applicant if applying for licensure as a registered nurse or APRN applicant if applying for licensure as an advanced practice registered nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), LR 24:1293 (July 1998), LR 28:

Interested persons may submit written comments on the proposed Rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on October 10, 2002.

Family Impact Statement

The proposed Rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Temporary Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that no additional staff or operating expenses will be needed to implement these changes. Only implementation cost is the cost to publish the Rule in the Louisiana Register at \$45.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no increased revenue based on temporary permits for clinical components of refresher courses for RNs or APRNs who enroll. The temporary permit will be included with the cost of endorsement or reinstatement. There is no estimated loss of revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no additional costs. The temporary permit will be included with the application fee for reinstatement or endorsement. It is anticipated that with the very small numbers of persons needing temporary permits (no more than 10 in one year) and that the permits will be printed on the same forms that RN and APRN temporary permits are printed on. Each permit costs fifteen cents with a maximum cost per year of \$1.50, which is negligible. It is estimated that economic benefits to those persons who use the temporary permits will be that they are able to complete the clinical portion of a refresher course and therefore enter or re-enter the workforce in the state of Louisiana with competence. These persons will compete only with RNs or APRNs who have comparable credentials.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that RNs and APRNs who complete the clinical portion of a board-approved refresher course will ultimately be approved for reinstatement or endorsement of licensure in the state of Louisiana. It is estimated that, given the current nursing shortage in Louisiana, these persons should find employment as RNs or APRNs. However, due to the small numbers anticipated (less than 10 persons per year), effects on

competition and employment in public and private sectors will be largely unaffected.

Barbara L. Morvant
Executive Director
0209#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Licensure of Licensed Professional Counselors
and Licensed Marriage and Family Therapists
(LAC 46:LX.Chapters 1 - 47)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1122, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to repeal and adopt certain Rules with regard to licensing of licensed professional counselors and licensed marriage and family therapists.

This revision is necessitated by Act 1195 of 2001 which extended the boards regulatory authority to include licensure of marriage and family therapists.

Sections 101-2117 are revisions of the existing Board Rules relative to licensed professional counselors, to bring them into accord with Act 1195, in terms of board composition and duties, and related issues.

Sections 2301-4319 are all new provisions, and deal strictly with licensure and regulations of marriage and family therapists, including the "grandfathering" of certain therapists who meet statutory and regulatory requirements. These Sections were likewise implemented by emergency Rule effective August 5, 2002, to allow the Board to meet statutory deadlines for completion of the "grandfathering" process.

There should be no adverse fiscal impact on the state as a result of this Rule inasmuch as the LPC Board operates solely on self-generated funds. Marriage and family therapists wishing to be licensed through the "grandfathering" process will enjoy an economic advantage by not having to comply with more stringent licensing qualifications. Further, the proposed rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors

Subpart 1. Licensed Professional Counselors

Chapter 1. General Provisions

§101. Statutory Authority

A. The Louisiana Licensed Professional Counselors Board of Examiners was initially created and empowered by Act 892 of the 1987 Legislature to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title "Licensed Professional Counselor" (R.S. 37:1102). Subsequently Act 1195 of 2002 empowered the Board to provide regulation of marriage and family therapy and the use of the title "Licensed Marriage and Family Therapist" (R.S.37:1102.B). Therefore, the

Professional Counselors Board of Examiners establishes the rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13, R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§103. Description of Organization

A. The Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and Hospitals, and consists of nine members, who shall be residents of the state of Louisiana. Each term shall be for four years. Seven appointments to the board shall be made by the governor from a list of qualified candidates submitted by the executive board of the Louisiana Counseling Association. Two appointments to the board shall be made by the governor from a list of candidates submitted by the Louisiana Association of Marriage and Family Therapists. Each appointment by the governor shall be submitted to the Senate for confirmation. Board membership shall consist of three licensed professional counselors, three educators who are licensed professional counselors and whose function is the training of mental health counselors in accredited programs, two Licensed Marriage and Family Therapists, and one individual from the public at large. No board member shall serve more than two full consecutive terms. The professional membership of the board shall be licensed under this Chapter. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 13 of Title 37.

1. The Licensed Professional Counselor board shall establish a Marriage and Family Therapy Advisory Committee, which shall consist of the two board members appointed by the governor from a list of names submitted by the Louisiana Association of Marriage and Family and one additional non-board member appointed by the governor from a list of names submitted by the Louisiana Association of Marriage and Family Therapy.

2. The function of the advisory committee shall be established by rules and regulations developed by the advisory committee, promulgated by the board, and approved jointly by the House and Senate Health and Welfare Committee.

3. The functions and duties of the advisory board may include but are not limited to the following: Develop rules and regulations in accordance with the Administrative Procedure Act as it may deem necessary to implement the provisions of this Chapter for promulgation and implementation by the board:

a. examine and qualify all applicants for licensure as marriage and family therapists and recommend to the board each successful applicant for licensure, attesting to his professional qualifications to be a marriage and family therapist;

b. develop for the board application forms for licensure pursuant to this Chapter; and

c. maintain complete records of all meetings, proceedings, and hearings conducted by the advisory committee.

4. The non-board member shall serve a term of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§105. Vacancies

A. A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the Executive Board of the Louisiana Counseling Association. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 1104 of R.S. 37:1101- 1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§107. Reimbursement

A. Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§109. Financially Self-Sufficient

A. The board shall be financially self-sufficient. It shall receive no state funds through appropriation or otherwise and shall not expend any such state funds. No state funds shall be expended or committed to expenditure for the group benefits program or any other health insurance or employee benefit program, for any retirement system, for any salary, per diem payment, travel or expenses, office supplies and materials, rent, purchase of any of any product or service, or for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28::

§111. Notification of Change

A. Every Licensed Professional Counselor/Counselor Intern every Licensed Marriage and Family Therapist/MFT Intern shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all changes in name, address, and phone number. Failure to comply with this rule within 30 days of change will result in a fine as set forth in Chapter 9.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 3. Board Meetings, Procedures, Records, Powers and Duties

§301. Officers

A. The board shall hold a meeting within 60 days after October 1, 1987 and elect from its membership a chairman, vice chairman, and secretary. The chairman shall preside at

all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice chairman, the secretary will preside until the chairman or vice chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and clerical secretary of the board before each regular meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§305. Board Staff

A. An executive director, who shall not be a member of the board, shall be employed, within the limits of the funds received by the board pursuant to R.S. 37:1106. The board shall be empowered to accept grants from foundations and institutions to carry on its functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§307. Meetings

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board. The board shall hold a meeting within 60 days after October 1, 1987, and semiannually thereafter. The chairperson may call meetings after consultation with board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given by posting the meeting place and time, seven days before the meeting, on the door of the office of the board and in two places in the building housing the office of the board. The board may examine, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§309. Quorum

A. Five members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§311. Procedures

A. The board shall adopt such rules, regulations, and examination procedures as it may deem necessary to effect the provisions of Act 892 (Chapter 13, R.S. 37:1101-1122). The board shall be empowered to accept grants from

foundations and institutions to carry on its functions. The board shall submit an annual report to the governor containing the financial and professional actions of the board during the past year. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board hereby adopts Robert's Rules of Order Revised as the basis of parliamentary decisions by the board except as otherwise provided by board rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§313. Code of Ethics

A. The board has adopted the Code of Ethics of the American Counseling Association for Licensed Professional Counselors as specified in R.S. 37:1105.D and may adopt any revisions or additions deemed appropriate or necessary by the board. Applicable ethics requirements for Licensed Marriage and Family Therapists and MFT Interns are addressed at §4301 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§315. Records of Proceedings

A. The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional counselors which shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 5. License and Practice of Counseling

§501. License of Title and Practice

A. As stated in R.S. 37:1111.A, no person shall assume or use the title or designation "Licensed Professional Counselor" or engage in the practice of mental health counseling unless he has in his possession a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§503. Definitions for Licensed Professional Counselors

A. For purposes of this rule, the following definitions will apply:

Board—the Louisiana Licensed Professional Counselors Board of Examiners.

Licensed Professional Counselor—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health

counseling. Mental health counseling services—those acts and behaviors coming within the practice of mental health counseling as defined in this chapter, including diagnosis and treatment of conditions or disorders requiring mental health counseling as defined in R.S. 37:1103(4)(a). However, nothing in this chapter shall be construed to authorize any person licensed hereunder to administer or interpret tests in accordance with the provisions of R.S. 37:2352(5), except as provided by LAC 46:LXIII.1702.E of the Louisiana Administrative Code, or engage in the practice of psychology or to prescribe, either orally or in writing, distribute, dispense, or administer any medications.

Practice of Mental Health Counseling—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107.A.(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

a. **Mental Health Counseling**—assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. **Mental Health Counseling Practicum**. Licensure requires the completion of a mental health counseling practicum totaling 100 clock hours. The practicum includes:

(a.) a minimum of 40 hours of direct counseling with individuals or groups;

(b.) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c.) a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. **Mental Health Counseling Internship**. Licensure requires the completion of a mental health counseling internship totaling 300 clock hours. The internship includes:

(a.) a minimum of 120 hours of direct counseling with individuals or groups;

(b.) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an LPC working in conjunction with the faculty member;

(c.) a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

b. *Consulting* Interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

c. *Referral Activities* The evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities* Reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. *Appraisal*

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a.) *Abilities* Those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b.) *Interests* Those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c.) *Aptitudes* Those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the Louisiana Administrative Code, Title 46, Part LX, Chapter 21. Code of Conduct for Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in Chapter 5. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences. Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree* The substance of which is professional mental health counseling in content shall be defined as a graduate degree from a regionally accredited university that shall conform to one of the criteria below:

i. a CACREP accredited counseling program;

ii. a counseling program incorporating the word "counseling" or counselor" in its title;

iii. a program incorporating a counseling-related term in its title (e.g. "marriage and family therapy"); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. In addition, the above should not be construed to include degrees in disciplines licensed elsewhere by the State of Louisiana (e.g., social work, psychology) with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. Other definitions specific to Licensed Marriage and Family Therapists and MFT Interns can be found in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 7. Requirements for Licensure of Licensed Professional Counselors

§701. General Provisions

A. The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the board. Such licensure shall be signed by the chairman and vice chairman of the board under the seal of the board. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§703. Licensed Professional Counselors Licensing Requirements

A. The board shall issue a license to each Licensed Professional Counselor applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:1106 and who furnishes satisfactory evidence to the board that he:

1. is at least 21 years of age;

2. is of good moral character;

3. is a citizen of the United States or has legally declared his intentions of becoming such;

4. is a resident of the state of Louisiana or is in the act of establishing residency in the state of Louisiana;

5. is not in violation of any of the provisions of R.S. 37:1101-1122 and the rules and regulations adopted herein;

6. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits;

7. has declared special competencies and demonstrated professional competence therein by passing a

written and, at the discretion of the board, an oral examination as shall be prescribed by the board;

8. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined by rules adopted by the board listed under Chapter 5), which shall not be interpreted to exclude post-graduate course work in mental health counseling, as part of the degree plan containing 48 graduate hours including eight content areas, practicum and internship approved by the Licensed Professional Counselors (LPC) Board.

a. the following eight areas are required to have at least one semester course:

- i. counseling/theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling;
- v. group dynamics, processes, and counseling;
- vi. lifestyle and career development;
- vii. appraisal of individuals;
- viii ethics;

9. has provided to the board a Declaration of Practices and Procedures, with the content being subject to board review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§705. Supervised Experience for Counselor Interns

A. Supervision Requirements

1. Supervision is defined as assisting the counselor intern in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. Supervision must comply with standards as set by the board.

2. Pursuant to R.S. 37:1107.A, an applicant for license must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

a.i. Based on the above, the board has broken down the required 3,000 hours of counseling experience in the following manner:

(a). a minimum of 1,900 hours (up to 2,900 hours) in direct client contact, individual or group counseling.

(b). a maximum of 1,000 hours in additional client contact, counseling related activities (i.e. case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health as defined above.

(c). a minimum of 100 hours of face-to-face supervision by a board approved supervisor.

ii. An applicant may utilize supervised hours earned in post-master's degree courses in counseling or in a doctoral degree program in counseling toward the required hours of supervised experience in addition to exercising the option of substituting 30 graduate semester hours earned beyond the master's degree for 500 hours of supervised experience, as long as supervised experience, practicum, or internship courses are not included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience. In no case, may the applicant have less than 2,000 hours of supervised experience.

b. The board recommends one hour of supervision for every 20 hours of direct client contact as outlined in Subclause (a). Supervision may not take place via mail or telephone. Telephone or mail contacts with supervisor may be counted under Subclause (b) (i.e., consultation), however, it cannot be counted as face to face supervision as defined in Subclause (c).

c. To be eligible for supervision as a Counselor Intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503, Definitions, and each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner, the areas in the description for the content areas.

i. Counseling/Theories of Personality. Description: counseling theories including both individual and systems perspectives; research and factors considered in applications of counseling theories; or theories of personality including major theories of personality.

ii. Human Growth and Development. Description: the nature and needs of individuals at developmental levels; theories of individual and family development and transitions across the life-span; theories of learning and personality development; human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior; strategies for facilitating development over the lifespan.

iii. Abnormal Behavior. Description: emotional and mental disorders experienced by persons of all ages; characteristics of disorders; common nosologies of emotional and mental disorders utilized within the U.S. health care system; the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, as published by the American Psychiatric Association; preferred treatment approaches for disorders based on research; common medications used by psychiatrists to treat disorders; working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

iv. Techniques of Counseling. Description: basic interviewing, assessment, and counseling skills; counselor characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills; client characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, and life circumstances;

v. Group Dynamics, Processes, and Counseling. Description: principles of group dynamics including group process components, developmental stage theories, and group members' roles and behaviors; group leadership styles and approaches including characteristics of various types of group leaders and leadership styles; theories of group counseling including commonalities, distinguishing characteristics, and pertinent research and literature; group counseling methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness; approaches used for other types of group work, including task groups, prevention groups, support groups, and therapy groups.

vi. Lifestyle and Career Development. Description: career development theories and decision-making models; career, a vocational, educational, and labor market information resources, visual and print media, and computer-based career information systems; career development program planning, organization, implementation, administration, and evaluation; interrelationships among work, family, and other life roles and factors including multicultural and gender issues as related to career development; career and educational placement, follow-up and evaluation; assessment instruments and techniques relevant to career planning and decision-making; computer based career development applications and strategies, including computer-assisted guidance systems; career counseling processes, techniques and resources including those applicable to specific populations.

vii. Appraisal of Individuals. Description: theoretical and historical bases for assessment techniques; validity including evidence for establishing content, construct, and empirical validity; reliability including methods of establishing stability, internal and equivalence reliability; appraisal methods including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods; psychometric statistics including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlations; age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups; strategies for selecting, administering, interpreting, and using assessment and evaluation instruments and techniques in counseling.

viii. Ethics. Description: ethical standards of the American Counseling Association, state counselor licensure boards, and national counselor certifying agencies; ethical and legal issues and their applications to various professional activities; history of the helping professions

including significant factors and events; professional roles and functions of counselors including similarities and differences with other mental health professionals; professional organizations, primarily the American Counseling Association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases, professional preparation standards, their evolution, and current applications; professional credentialing including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues; public policy processes including the role of the professional counselor in advocating on behalf of the profession and its clientele.

d. If a Counselor Intern commences supervision prior to August 15, 1996 pursuant to §705.A.2.c above, the Counselor Intern must complete all of the eight content areas pursuant to R.S.37:1107.B, in order to be eligible for licensure upon completion of the supervised internship.

3. Acceptable modes for supervision of direct clinical contact are the following.

a. Individual Supervision. The supervisory session is conducted by an approved supervisor with one Counselor Intern present.

b. Group Supervision. The supervisory session is conducted by an approved supervisor with no more than ten Counselor Interns present.

4. At least 100 hours of the Counselor Intern's direct clinical contact with clients must be supervised by an approved supervisor or supervisors, as defined below.

a. At least 50 of these 100 hours must be individual supervision as defined above. The remaining 50 hours of these 100 hours may be either individual supervision or group supervision as defined above.

b. A supervisor may not supervise more than ten Counselor Interns at any given time.

5. Supervisors of, Counselor Interns, as defined in these rules, have the responsibility of assisting Counselor Interns in increasing their skills as a mental health professional. Supervisors, as defined in these rules, have no control, oversight, or professional responsibility for the services of Counselor Interns whom they are supervising, unless a supervisor also serves as the administrative supervisor of a Counselor Intern in the setting in which the Counselor Intern is employed or contracted or is rendering counseling services on a volunteer basis. The control, oversight, and professional responsibility for Counselor Interns rests with the Counselor Intern's administrative supervisor in the setting in which they are employed or contracted or are rendering counseling services on a volunteer basis. In obtaining permission for outside supervision, Counselor Interns must notify their administrative supervisor of the identity of their supervisor for the purpose of gaining the supervised experience for licensure and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting.

6. The process of supervision must encompass multiple strategies of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the Counselor Intern's self-reports,

microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques.

7. The supervisor must provide nurturance and support to the Counselor Intern, explaining the relationship of theory to practice, suggesting specific actions, assisting the Counselor Intern in exploring various models for practice, and challenging discrepancies in the counselor intern's practice.

8. The supervisor must ensure the Counselor Intern's familiarity with important literature in the field of counseling.

9. The supervisor must provide training appropriate to the Counselor Intern's intended area of expertise and practice.

10. The supervisor must model effective professional counseling practice.

11. The supervisor must ensure that the mental health counseling and the supervision of the mental health counseling is completed in an appropriate professional setting.

12. The Counselor Intern must have received a letter of supervision approval from the Board; and

13. The professional setting cannot include private practice in which the Counselor Intern operates, manages or has an ownership interest in the private practice, unless the Counselor Intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

14. Supervisors may employ Counselor Interns in their private practice setting. The supervisor may bill clients for services rendered by the Counselor Intern, however, under no circumstances can the Counselor Intern bill clients directly for services rendered by him/herself.

15. The supervisor must certify to the board that the Counselor Intern has successfully complied with all requirements for supervised counseling experience.

B. Qualifications of a Supervisor of Counselor Interns

1. Those individuals who may provide supervision to Counselor Interns must meet the following requirements:

a. Licensure Requirements. The supervisor must hold a Louisiana license as a Licensed Professional Counselor.

b. Counseling Practice. The supervisor must have been practicing mental health counseling in their setting (i.e., school, agency, private practice) for at least five years. Two of the five years experience must be post licensing experience.

c. Training in Supervision. Supervisors must have successfully completed either Clauses i or ii below:

i. Graduate-Level Academic Training. At least one graduate-level academic course in counseling supervision. The course must have included at least 45 clock hours (equivalent to a three credit hour semester course) of supervision training.

ii. Professional Training. A board approved professional training program in supervision. The training program must be a minimum of 25 direct clock hours with the trainers and meet presentation standards established by the board.

2. A supervisor may not be a relative of the Counselor Intern. Relative of the Counselor Intern is defined as spouse, parent, child, sibling of the whole- or half-blood,

grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship.

3. No person shall serve as a supervisor if his/her license is expired or subject to terms of probation, suspension, or revocation.

C. Responsibility of Applicant under Supervision

1. During the period of supervised counseling experience an applicant will identify him/herself as a Counselor Intern.

2. Each Counselor Intern must provide his/her clients with a disclosure statement (as outlined in the Appendix of the LPC Code of Conduct) that includes:

a. his/her training status; and

b. the name of his/her supervisor for licensure purposes.

3. Counselor Interns must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101- 1122).

4. Counselor Interns may not initiate a private practice during their period of supervised counseling experience. Counselor Interns who are employed within their supervisors' private practice setting cannot, under any circumstances, bill clients directly for services they render, unless the Counselor Intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

5. Upon completion of the required number of hours of supervised counseling experience, the Counselor Intern needs to submit an application for licensure. Any individual who does not apply for licensure within three months after completing the required number of hours of supervised counseling experience cannot continue to practice professional mental health counseling.

6. Supervision hours do not begin accruing until after the application for supervision has been filed and approved by the LPC Board.

D. Registration of Supervised Experience

1. All proposed supervision arrangements beginning on or after January 1, 1993 must be approved by the board prior to the starting date of the supervised experience.

a. The Counselor Intern will:

i. Along with his/her supervisor provide the board with a written proposal outlining with as much specificity as possible the nature of the counseling duties to be performed by the Counselor Intern and the nature of the supervision.

ii. Submit this written proposal on forms provided by the board at least 60 days prior to the proposed starting date of the supervision.

iii. Submit along with the written proposal the appropriate fee determined by the board.

2. Supervised experience rendered by the Counselor Intern in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107.A.

3. Following the board's review, the Counselor Intern will be informed by letter either that the proposed supervision arrangement has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 8. Renewal of Licensed Professional Counselor Licenses

§801. Renewal

A. A licensed professional counselor shall renew his/her license every two years in the month of June by meeting the requirement that 40 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee should submit a declaration statement only if there has been a change in area of expertise, with the content being subject to board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise noted in the declaration statement. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed every two years during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§803. Continuing Education Requirements for Licensed Professional Counselor's

A. General Guidelines

1. An LPC licensee must accrue 40 clock hours of continuing education by every renewal period every two years, with the exception that a licensee renewing a license which expires on June 30, 2000 must accrue 25 clock hours of continuing education.

2. One continuing education hour (CEH) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. CEHs accrued beyond the required 40 hours may not be applied toward the next renewal period. Renewal periods run from July 1 to June 30, every two years.

5. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Do not forward documentation of CEHs to the Board office as they are accrued.

6. At the time of renewal ten percent of the licensees will be audited to ensure that the continuing education requirement is being met. If you are one of the 10 percent chosen, you will be requested by letter to submit documentation of your CEHs.

B. Approved Continuing Education for Licensed Professional Counselors

1. Continuing education requirements are meant to encourage personal and professional development

throughout the LPC's career. For this reason a wide range of options are offered to accommodate the diversity of counselors' training, experience and geographic locations.

2. An LPC may obtain the 40 CEHs through one or more of the options listed below.

a. Continuing Education Approved by Other Organizations. Continuing education that is approved by either the American Counseling Association (ACA), its divisions, regions and state branches, Louisiana Counseling Association (LCA) or the National Board of Certified Counselors (NBCC) will be accepted by the Board of Examiners. One may contact these associations to find out which organizations, groups or individuals are approved providers. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification can consist of copies of certificates of attendance.

b. Continuing Education Not Preapproved. For those organizations, groups or individuals that do not carry provider status by one of the above associations, the continuing education hours will be subject to approval by the Board of Examiners at the time of renewal. The Board will not preapprove any type of continuing education. The continuing education must be in one of the twelve approved content areas listed in §803.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above and trained in the mental health field or related services. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification for workshops, seminars, or conventions can consist of copies of certificates of attendance. Typically one Continuing Education Unit (CEU) is equivalent to 10 clock hours.

c. Coursework. CEHs may also be gained by taking coursework (undergraduate or graduate) from a regionally accredited institution in one of the 12 approved content areas for continuing education listed in §803.C. One may take a course for credit or audit a course. In a college or university program, one semester hour is equivalent to 15 clock hours and one quarter hour is equivalent to 10 clock hours. Therefore, 45 CEHs will be given for a three hour university course completed at a regionally accredited university. Verification for coursework can consist of either copies of transcripts for coursework taken for credit or letter of attendance from instructor for courses audited.

d. Home Study. The LCA journal, video presentations and approved teleconferences are all approved home study options. Each option must carry a provider number from either NBCC, LCA or other board approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, LCA

or certificates from other professional mental health organizations that will be reviewed by the Board.

e. Presentations. Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in Subparagraph b above. The presentation must be to the professional community; not to the lay public or a classroom presentation. The presentation must also be in one of the twelve approved content areas listed in §803.C. Verification of your presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. Publishing. Authors may receive five clock hours per article or chapter in a book. The article must be published in a professional refereed journal. Both articles and chapters must be in one of the 12 approved content areas listed in §803.C. Verification will consist of either a reprint of the article/chapter, or a copy of the article/chapter, cover of the book/journal and page listing the editor or publisher.

g. Counseling (10 hours maximum per renewal period). One may receive one clock hour of continuing education per counseling hour as a client. To qualify, one must be a client receiving services from a licensed mental health professional having qualifications equal to or exceeding those currently required of LPC's. Consultation and supervision hours do not qualify. Verification will consist of a letter from the counseling mental health professional verifying client therapy hours.

h. Research. One may receive one clock hour of continuing education per hour of planning or conduct of, or participation in, counseling or counseling-related research. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter from the faculty member or researcher.

i. Peer Supervision (10 hour maximum per renewal period). One may receive one clock hour of continuing education per hours of performing peer supervision activities. For example, case work consultation.

C. Approved Content Areas. Continuing Education Hours must be in one of the following 12 content areas.

1. Counseling TheoryCincludes a study of basic theories, principles and techniques of counseling and their application in professional settings.

2. Human Growth and DevelopmentCincludes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory and learning theory within appropriate cultural contexts.

3. Social and Cultural FoundationsCincludes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

4. The Helping RelationshipCincludes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change.

5. Group Dynamics, Processing and CounselingCincludes studies that provide a broad understanding of group development, dynamics, and counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches.

6. Lifestyle and Career DevelopmentCincludes studies that provide a broad understanding of career development theories; occupational and educational information sources and systems; career and leisure counseling, guidance, and education; lifestyle and career decision-making; career development program planning and resources; and effectiveness evaluation.

7. Appraisal of IndividualsCincludes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes.

8. Research and EvaluationCincludes studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information, and ethical and legal considerations associated with the conduct of research.

9. Professional OrientationCincludes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing and management of private practice and agency settings.

10. Marriage and FamilyCincludes studies that provide a broad understanding of marriage and family theories and approaches to counseling with families and couples. This includes appraisal of family and couples systems and the application of these to counseling families and/or couples.

11. Chemical DependencyCincludes studies that provide a broad understanding of chemical dependency issues, theories, and strategies to be applied in the helping relationship for chemical dependency counseling.

12. SupervisionCincludes studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised setting.

D. Types of Documentation Needed for Verification

1. Copy of certificate of attendance for workshops, seminars, or conventions.

2. Copy of transcript for coursework taken for credit/letter of attendance from instructor for courses audited.

3. Home Study verification form or certificate issued by LCA/NBCC.

4. Letter from workshop/convention coordinator verifying presentations.

5. Copy of article, cover and editorial board page for publications.

6. Letter from counseling mental health professional verifying number of hours in counseling as a client.

7. Letter from the faculty member or researcher verifying number of hours in research.

8. Letter or certificate from the LPC Board of Examiners, or from the board-approved counseling service organization, verifying number of hours of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

1.	Application, license and seal	\$200
2.	Privileging review for appraisal and other specialty areas	\$100
3.	Registration of Supervision	\$100
4.	Renewal of license	\$150
5.	Late fee for renewal	\$ 50
6.	Reissue of license duplicate	\$ 25
7.	Name change on records	\$ 25
8.	Copy of LPC file	\$ 25
9.	Copy of any documents	cost incurred
10.	Marriage and Family Therapy Examination Fee	\$100

B The late fee will be incurred the day after a licensee's designated renewal deadline at 4 p.m. (no grace period). No part of any fee shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order. The renewal shall be deemed timely when:

1. the renewal is delivered on or before the due date; or

2. the renewal is mailed on or before the due date. If the renewal is received by mail on the first working day following the due date, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purpose of this Section, "by mail" applies only to the United States Postal Service.

C. The board may assess and collect fines in an amount not to exceed \$500 for violations of Chapter 9 and Rules promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§903. Deposit and Use of Fees and Funds

A. All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to carrying out of the provisions of R.S. 37:1101-1122 . Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 11. Reciprocity In LPC Licensing

§1101. States, Territories, and Commonwealths

A. Upon application accompanied by a fee and without written or oral examination, as stated in R.S.37:1109, the board may issue an LPC license to any person who furnished upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he is licensed, certified, or registered as a professional counselor by another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements for such licensure, certification, or registration are substantially equivalent to those of R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:103 (February 1996), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 13. Disciplinary Proceedings for Licensed Professional Counselors

§1301. Causes for Administrative Action

A. The Board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedures Act, R.S.49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a Licensed Professional Counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the Licensed Professional Counselor or applicant for licensure. Sometimes hereinafter in this Chapter, where the context allows a Licensed Professional Counselor or applicant for licensure may be referred to as "person."

B. The Board shall also deny, revoke or suspend any license issued or applied for, or otherwise discipline a Licensed Professional Counselor on a finding that such person has violated any other applicable state law which themselves requires denial, revocation, or suspension of the license of such Licensed Professional Counselor or applicant. Such statutes include, but are not limited to R.S.37:2951 et seq. (nonpayment of certain student loans), and R.S.37:2952 et seq. (nonpayment of child support).

C. In addition to the Code of Conduct adopted by the LPC Board as Chapter 21, §2101-2117, the following actions or inactions by a Licensed Professional Counselor shall also be considered ethical violations by a Licensed Professional Counselor which may allow denial revocation, or suspension of Licensed Professional Counselor's license.

1. Failure to report suspected child abuse or neglect (R.S. 14:403 et seq. and Children's Code Article 609 et seq.)

2. Failure to report suspected elder abuse or neglect (R.S. 14:403.2 et seq.)

3. Failure to maintain patient records required by law (R.S. 40:1299.96 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1303. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, the Code of Ethics of the American Counseling Association, or prior Final Decisions and/or Consent Orders involving the licensed professional counselor or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR:25:259 (February 1999), amended LR 28:

§1305. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential to the Ad Hoc Committee for Disciplinary Affairs of the board and shall be sent to the board office. The Ad Hoc Committee for Disciplinary Affairs of the board shall, during an executive session of the board, convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request the Ad Hoc Committee for Disciplinary Affairs to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall request the Ad Hoc Committee for Disciplinary Affairs to notify the person that allegations have been made that he may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. A response is to be made to the Ad Hoc Committee for Disciplinary Affairs of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may conduct investigations into alleged violations by a licensed professional counselor or applicant of this Chapter or rules and regulations promulgated pursuant thereto, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1307. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized:

1. Disposition by Correspondence. For complaints less serious, the Ad Hoc Committee for Disciplinary Affairs of the board may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference.

a. The Ad Hoc Committee for Disciplinary Affairs of the board may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing. Board members may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1309. Formal Hearing

A. The board has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;

2. the right of notice;
 3. a statement of what accusations have been made;
 4. the right to present evidence and to cross-examine;
- and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, or the Code of Ethics of the American Counseling Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the board's agent or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations promulgated thereto, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least 20 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to 10 days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the

issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

- i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);
- ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;
- iii. visual, physical and illustrative evidence;
- iv. admissions, which are written or oral statements of a party made either before or during the hearing;
- v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows.

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

11. a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

ii. all documents and/or other materials accepted as evidence at the hearing;

iii. statements of matters officially noticed;

iv. notices required by the statutes or rules; including notice of hearing;

v. affidavits of service or receipts for mailing or process or other evidence of service;

vi. stipulations, settlement agreements or consent orders, if any;

vii. records of matters agreed upon at a prehearing conference;

viii. reports filed by the hearing officer, if one is used;

ix. orders of the board and its final decision;

x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process.

i. determine the facts at issue on the basis of the evidence submitted at the hearing;

ii. determine whether the facts in the case support the charges brought against the person; and

iii. determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations of the board.

b. Deliberation

i. The board will deliberate in closed session;

ii. the board will vote on each charge as to whether the charge has been supported by the evidence; (the standard will be "preponderance of the evidence")

iii. after considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure; and

iv. the board by affirmative vote of a majority of those members voting, shall be needed to withhold, deny,

revoke, or suspend any license issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

i. the board's decision is clearly contrary to the law and evidence;

ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

iv. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1311. Consent Order

A. An order involving some type of disciplinary action may be made by the Board with the consent of the person. A consent order requires formal consent of four of seven members of the board. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. The consent order is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1313. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1315. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1317. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within 30 days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1319. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1321. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from

the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1323. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the rules and regulations promulgated by the board and/or the Code of Ethics of the American Counseling Association.

1. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

a. the name and address of the petitioner;

b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and

c. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1325. Injunction

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by this Chapter, any rules and regulations adopted by the board, and any codes of ethics adopted by the board.

B. If it is established that the defendant has been or is committing an act in violation of this Chapter or of any rules or regulations adopted pursuant to this Chapter, including any codes of ethics adopted by the board, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of this Section, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Chapter.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 15. Privileged Communication for Licensed Professional Counselors

§1501. Privileged Communications with Clients

A. The confidential relations and communications between a licensed professional counselor and client are placed upon the same basis as those provided by statute between an attorney and client. Nothing in these rules shall be construed to require that any such privileged communication be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1503. Privileged Communication between Health Care Provider and Patient

A. R.S. 13:3734.A.(1), states that "health care provider" means a hospital, as defined in R.S. 40:2102, hereof, and means a person, corporation, facility, or institution licensed by the state to provide health care or professional services as a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, or licensed professional counselor and an officer, employee, or agent thereof acting in the course and scope of his employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 17. Exclusions for Licensed Professional Counselors

§1701. Scope

A. The following persons and their activities are exempted from the licensing requirements of R.S. 37:1101-1122 and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§1703. Exemptions

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school. Nothing herein shall be construed to allow such persons to render mental health counseling services to the public unless they have also been licensed under the provisions of R.S.37:1107

B. Any nonresident temporarily employed in this state to render mental health counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:1107 or who holds a valid license and certificate issued under the authority of the laws of another state.

C. Any student in an accredited education institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional mental health counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

D. Any persons licensed, certified, or registered under any other provision of the state law, as long as the services rendered are consistent with their laws, professional training, and code of ethics, provided they do not represent themselves as licensed professional counselors or mental health counselors, unless they have also been licensed under the provisions of R.S.37:1107.

E. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination, provided they are practicing within the employment of their church or religious affiliated institution and they do not represent themselves as licensed professional counselors or mental health counselors unless they have also been licensed under the provisions of R.S.37:1107.

F. Any person with a master's degree in counseling while practicing mental health counseling under the board approved supervision of a licensed professional counselor. The supervisee must use the title "counselor intern" and shall not represent himself to the public as a licensed professional counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 21. Code of Conduct for Licensed Professional Counselors

§2101. Preamble

A. The Louisiana Licensed Professional Board of Examiners is dedicated to the enhancement of the worth, dignity, potential and uniqueness of each individual in the state of Louisiana.

B. Specification of a code of conduct enables the Board to clarify to present and future counselors and to those served by counselors the responsibilities held in common by persons practicing mental health counseling.

C. Mental health counseling, as defined in the licensure law, is "assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers."

D. The existence of this code of conduct serves to govern the practice of mental health counseling and the professional functioning of Licensed Professional Counselors in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2103. Counseling Relationship

A. Client Welfare

1. Primary Responsibility. The primary responsibility of counselors shall be to respect the dignity and to promote the welfare of clients.

2. Positive Growth and Development. Counselors shall encourage client growth and development in ways that foster the clients' interest and welfare; counselors shall avoid fostering dependent counseling relationships.

3. Counseling Plans. Counselors and their clients shall work jointly in devising integrated, individual counseling

plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients shall regularly review counseling plans to ensure their continued viability and effectiveness, respecting clients' freedom of choice.

4. Family Involvement. Counselors shall recognize that families are usually important in clients' lives and shall strive to enlist family understanding and involvement as a positive resource, when appropriate.

5. Career and Employment Needs. Counselors shall work with their clients in considering employment in jobs and circumstances that are consistent with the clients' overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Counselors shall neither place nor participate in placing clients in positions that will result in damaging the interest and the welfare of clients, employers, or the public.

B. Respecting Diversity

1. Nondiscrimination. Counselors shall not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic status.

2. Respecting Differences. Counselors shall actively attempt to understand the diverse cultural backgrounds, of the clients with whom they work. This includes, but is not limited to, learning how the counselor's own cultural/ethnic/racial identity impacts her/his values and beliefs about the counseling process.

C. Client Rights

1. Disclosure to Clients. When counseling is initiated, and throughout the counseling process as necessary, counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed, and other pertinent information. Counselors shall take steps to ensure that clients understand and implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients have the right to expect confidentiality and to be provided with an explanation of its limitations, including supervision and/or treatment team professionals; to obtain clear information about their case records; to participate in the ongoing counseling plans; and to refuse any recommended services and be advised of the consequences of such refusal.

2. Freedom of Choice. Counselors shall offer clients the freedom to choose whether to enter into a counseling relationship and to determine which professional(s) will provide counseling. Restrictions that limit choices of clients shall be fully explained.

3. Inability to Give Consent. When counseling minors or persons unable to give voluntary informed consent, counselors shall act in these clients' best interests.

D. Clients Served by Others

1. If a client is receiving services from another mental health professional, counselors, with clients consent, shall inform the professional persons already involved and develop clear agreements to avoid confusion and conflict for the client.

E. Personal Needs and Values

1. Personal Needs. In the counseling relationship, counselors shall be aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and shall avoid actions that seek to meet their personal needs at the expense of clients.

2. Personal Values. Counselors shall be aware of their own values, attitudes, beliefs, and behaviors and how these apply in a diverse society, and shall avoid imposing their values on clients.

F. Dual Relationships

1. Avoid When Possible. Counselors shall be aware of their influential positions with respect to clients, and they shall avoid exploiting the trust and dependency of clients. Counselors shall make every effort to avoid dual relationships with clients that could impair professional judgement or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, or close personal relationships with clients.) When a dual relationship cannot be avoided, counselors shall take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Superior/Subordinate Relationships. Counselors shall not accept as clients superiors or subordinates with whom they have administrative, supervisory, or evaluative relationships.

G. Sexual Intimacies with Clients

1. Current Clients. Counselors shall not have any type of sexual intimacies with clients and shall not counsel persons with whom they have had a sexual relationship.

2. Former Clients. Counselors shall not engage in sexual intimacies with former clients within a minimum of two years after terminating the counseling relationship. Counselors who engage in such relationship after two years following termination shall have the responsibility to thoroughly examine and document that such relations did not have an exploitative nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, clients's personal history and mental status, adverse impact on the client, and actions by the counselor suggesting a plan to initiate a sexual relationship with the client after termination.

H. Multiple Clients. When counselors agree to provide counseling services to two or more persons who have a relationship (such as husband and wife, or parents and children), counselors shall clarify at the outset which person or persons are clients and the nature of the relationships they will have with each involved person. If it becomes apparent that counselors may be called upon to perform potentially conflicting roles, they shall clarify, adjust, or withdraw from roles appropriately.

I. Group Work

1. Screening. Counselors shall screen prospective group counseling/therapy participants. To the extent possible, counselors shall select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

2. Protecting Clients. In a group setting, counselors shall take reasonable precautions to protect clients from physical or psychological trauma.

J. Fees and Bartering

1. Advance Understanding. Counselors shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the use of collection agencies or legal measures for nonpayment.

2. Establishing Fees. In establishing fees for professional counseling services, counselors shall consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance shall be provided in attempting to find comparable services of acceptable cost.

3. Bartering Discouraged. Counselors shall ordinarily refrain from accepting goods or services from clients in return for counseling services because such arrangements create inherent potential for conflicts, exploitation, and distortion of the professional relationship. Counselors may participate in bartering only if the relationship is not exploitive, if the client requests it, if a clear written contract is established, and if such arrangements are an accepted practice among professionals in the community.

4. Pro Bono Service. Counselors shall contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono).

K. Termination and Referral

1. Abandonment Prohibited. Counselors shall not abandon or neglect clients in counseling. Counselors shall assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, and following termination.

2. Inability to Assist Clients. If counselors determine an inability to be of professional assistance to clients, they shall avoid entering or immediately terminate a counseling relationship. Counselors shall be knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors shall discontinue the relationship.

3. Appropriate Termination. Counselors shall terminate a counseling relationship, securing client agreement when possible, when it is reasonably clear that the client is no longer benefitting, when services are no longer required, when counseling no longer serves the client's needs or interests, when agency or institution limits do not allow provision of further counseling services.

L. Computer Technology

1. Use of Computers. When computer applications are used in counseling services, counselors shall ensure that:

a. the client is intellectually, emotionally, and physically capable of using the computer application;

b. the computer application is appropriate for the needs of the client;

c. the client understands the purpose and operation of the computer applications; and

d. a follow-up of client use of a computer application is provided to correct possible misconceptions, discover inappropriate use, and assess subsequent needs.

2. Explanation of Limitations. Counselors shall ensure that clients are provided information as a part of the

counseling relationship that adequately explains the limitations of computer technology.

3. Access to Computer Applications. Counselors shall provide for equal access to computer applications in counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2105. Confidentiality

A. Right to Privacy

1. Respect for Privacy. Counselors shall respect their clients' right to privacy and avoid illegal and unwarranted disclosures of confidential information.

2. Client Waiver. The right to privacy may be waived by the client or their legally recognized representative.

3. Exceptions. The general requirement that counselors shall keep information confidential does not apply when disclosure is required to prevent clear and imminent danger to the client or others or when legal requirements demand that confidential information be revealed. Counselors shall consult with other professionals when in doubt as to the validity of an exception.

4. Contagious, Fatal Diseases. A counselor who receives information confirming that a client has a disease commonly known to be both communicable and fatal shall be justified in disclosing information to an identifiable third party, who by his or her relationship with the client is at a high risk of contracting the disease. Prior to making a disclosure the counselor shall ascertain that the client has not already informed the third party about his or her disease and that the client is not intending to inform the third party in the immediate future.

5. Court Ordered Disclosure. When court ordered to release confidential information without a client's permission, counselors shall request to the court that the disclosure not be required due to potential harm to the client or counseling relationship.

6. Minimal Disclosure. When circumstances require the disclosure of confidential information, only essential information shall be revealed. To the extent possible, clients are informed before confidential information is disclosed.

7. Explanation of Limitations. When counseling is initiated and throughout the counseling process as necessary, counselors shall inform clients of the limitations of confidentiality and identify foreseeable situations in which confidentiality must be breached.

8. Subordinates. Counselors shall make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates including employees, supervisees, clerical assistants, and volunteers.

9. Treatment Teams. If client treatment will involve a continued review by a treatment team, the client shall be informed of the team's existence and composition.

B. Groups and Families

1. Group Work. In group work, counselors shall clearly define confidentiality and the parameters for the specific group being entered, explain its importance, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed shall be clearly communicated to group members.

2. Family Counseling. In family counseling, information about one family member shall not be disclosed to another member without permission. Counselors shall protect the privacy rights of each family member.

C. Minor or Incompetent Clients. When counseling clients who are minors or individuals who are unable to give voluntary, informed consent, parents or guardians shall be included in the counseling process as appropriate. Counselors shall act in the best interests of clients and take measures to safeguard confidentiality.

D. Records

1. Requirement of Records. Counselors shall maintain records necessary for rendering professional services to their clients and as required by laws, regulations, or agency or institution procedures.

2. Confidentiality of Records. Counselors shall be responsible for securing the safety and confidentiality of any counseling records they create, maintain, transfer, or destroy whether the records are written, taped, computerized, or stored in any other medium.

3. Permission to Record or Observe. Counselors shall obtain permission from clients prior to electronically recording or observing sessions.

4. Client Access. Counselors shall recognize that counseling records are kept for the benefit of clients, and therefore shall provide access to records and copies of records when requested by competent clients, unless the records contain information that may be misleading and detrimental to the client. In situations involving multiple clients, access to records shall be limited to those parts of records that do not include confidential information related to another client.

5. Disclosure or Transfer. Counselors shall obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in §2105.A. Steps shall be taken to ensure that receivers of counseling records are sensitive to their confidential nature.

E. Research and Training

1. Data Disguise Required. Use of data derived from counseling relationships for purposes of training, research, or publication shall be confined to content that is disguised to ensure the anonymity of the individuals involved.

2. Agreement for Identification. Identification of a client in a presentation or publication shall be permissible only when the client has reviewed the material and has agreed to its presentation or publication.

F. Consultation

1. Respect for Privacy. Information obtained in a consulting relationship shall be discussed for professional purposes only with persons clearly concerned with the case. Written and oral reports shall present data germane to the purposes of the consultation, and every effort shall be made to protect client identity and avoid undue invasion of privacy.

2. Cooperation Agencies. Before sharing information, counselors shall make efforts to ensure that there are defined policies in other agencies serving the counselor's clients that effectively protect the confidentiality of information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2107. Professional Responsibilities

A. Standards Knowledge. Counselors shall have a responsibility to read, understand, and follow the Code of Ethics and the Standards of Practice.

B. Professional Competence

1. Boundaries of Competence. Counselors shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall demonstrate a commitment to gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population. The Louisiana Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

2. New Specialty Areas of Practice. Counselors shall practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors shall take steps to ensure the competence of their work and to protect others from possible harm. The Louisiana Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of new area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

3. Qualified for Employment. Counselors shall accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall hire for professional counseling positions only individuals who are qualified and competent.

4. Monitor Effectiveness. Counselors shall continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice shall take reasonable steps to seek out peer supervision to evaluate their efficacy as counselors.

5. Ethical Issues Consultation. Counselors shall take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice.

6. Continuing Education. Counselors shall recognize the need for continuing education to maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They shall take steps to maintain competence in the skills they use, are open to new procedures, and keep current when the diverse and/or special populations with whom they work.

7. Impairment. Counselors shall refrain from offering or accepting professional services when their physical, mental or emotional problems are likely to harm a client or others. They shall be alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

C. Advertising and Soliciting Clients

1. **Accurate Advertising.** There are no restrictions on advertising by counselors except those that can be specifically justified to protect the public from deceptive practices. Counselors shall advertise or represent their services to the public by identifying their credentials in an accurate that is not false, misleading, deceptive, or fraudulent. Counselors shall only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited by one of the regional accrediting bodies recognized by the Council on Postsecondary Accreditation at the time the degree was awarded.

2. **Testimonials.** Counselors who use testimonials shall not solicit them from clients or other persons who, because of their particular circumstances, may be vulnerable to undue influence.

3. **Statements by Others.** Counselors shall make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

4. **Recruiting through Employment.** Counselors shall not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

5. **Products and Training Advertisements.** Counselors who develop products related to their profession or conduct workshops or training events shall ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

6. **Promoting to Those Served.** Counselors shall not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. Counselors may adopt textbooks they have authored for instruction purposes.

7. **Professional Association Involvement.** Counselors shall actively participate in local, state, and national associations that foster the development and improvement of counseling.

D. Credentials

1. **Credentials Claimed.** Counselors shall claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others. Professional credentials shall include graduate degrees in counseling or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, ACA professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in counseling.

2. **ACA Professional Membership.** ACA professional members may announce to the public their membership status. Regular members shall not announce their ACA membership in a manner that might imply they are credentialed counselors.

3. **Credential Guidelines.** Counselors shall follow the guidelines for use of credentials that have been established by the entities that issue the credentials.

4. **Misrepresentation of Credentials.** Counselors shall not attribute more to their credentials than the credentials

represent, and shall not imply that other counselors are not qualified because they do not possess certain credentials.

5. Doctoral Degrees from Other Fields.

a. Counselors who hold a master's degree in counseling or a closely related mental health field, but hold a doctoral degree from other than counseling or a closely related field shall not use the title, "Dr." in their practices and shall not announce to the public in relation to their practice or status as a counselor that they hold a doctorate.

b. A doctoral degree in counseling or a closely related field is defined as a doctoral degree from a regionally accredited university that shall conform to one of the criteria below:

i. a CACREP accredited doctoral counseling program;

ii. a doctoral counseling program incorporating the work "counseling" or "counselor" in its title;

iii. a doctoral program incorporating a counseling related term in its title (e.g., Marriage and Family Therapy); or

iv. a doctoral program in a behavioral science that would augment the counseling skills of a Licensed Professional Counselor.

E. Public Responsibility

1. **Nondiscrimination.** Counselors shall not discriminate against clients, students, or supervisees in a manner that has a negative impact based on their age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status, or for any other reason.

2. **Sexual Harassment.** Counselors shall not engage in sexual harassment. Sexual harassment is defined as sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either: (a) is unwelcome, is offensive, or creates a hostile workplace environment, and counselors know or are told this; or (b) is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

3. **Reports to Third Parties.** Counselors shall be accurate, honest, and unbiased in reporting their professional activities and judgments to appropriate third parties including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

4. **Media Presentations.** When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

a. the statements are based on appropriate professional counseling literature and practice;

b. the statements are otherwise consistent with the Code of Ethics and the Standards of Practice; and

c. the recipients of the information are not encouraged to infer that a professional counseling relationship has been established.

5. **Unjustified Gains.** Counselors shall not use their professional positions to seek or receive unjustified personal gains, sexual favors, unfair advantage, or unearned goods or services.

F. Responsibility to Other Professionals

1. **Different Approaches.** Counselors shall be respectful of approaches to professional counseling that differ from their own. Counselors shall know and take into account the traditions and practices of other professional groups with which they work.

2. **Personal Public Statements.** When making personal statements in a public context, counselors shall clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession.

3. **Clients Served by Others.** When counselors learn that their clients are in a professional relationship with another mental health professional, they shall request release from clients to inform the other professionals and strive to establish positive and collaborative professional relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2109. Relationships with Other Professionals

A. Relationships with Employers and Employees

1. **Role Definition.** Counselors shall define and describe for their employers and employees the parameters and levels of their professional roles.

2. **Agreements.** Counselors shall establish working agreements with supervisors, colleagues, and subordinates regarding counseling or clinical relationships, confidentiality, adherence to professional standards, distinction between public and private material, maintenance and dissemination of recorded information, workload, and accountability. Working agreements in each instance shall be specified and made known to those concerned.

3. **Negative Conditions.** Counselors shall alert their employers to conditions that may be potentially disruptive or damaging to the counselor's professional responsibilities or that may limit their effectiveness.

4. **Evaluation.** Counselors shall submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

5. **In-Service.** Counselors shall be responsible for in-service development of self and staff.

6. **Goals.** Counselors shall inform their staff of goals and programs.

7. **Practices.** Counselors shall provide personnel and agency practices that respect and enhance the rights and welfare of each employee and recipient of agency services. Counselors shall strive to maintain the highest levels of professional services.

8. **Personnel Selection and Assignment.** Counselors shall select competent staff and assign responsibilities compatible with their skills and experiences.

9. **Discrimination.** Counselors, as either employers or employees, shall not engage in or condone practices that are inhumane, illegal, or unjustifiable (such as considerations based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status) in hiring, promotion, or training.

10. **Professional Conduct.** Counselors shall have a responsibility both to clients and to the agency or institution

within which services are performed to maintain high standards of professional conduct.

11. **Exploitive Relationships.** Counselors shall not engage in exploitive relationships with individuals over whom they have supervisory, evaluative, or instructional control or authority.

12. **Employer Policies.** The acceptance of employment in an agency or institution implies that counselors shall be in agreement with its general policies and principles. Counselors shall strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

B. Consultation

1. **Consultation as an Option.** Counselors may choose to consult with any other professionally competent persons about their clients. In choosing consultants, counselors shall avoid placing the consultant in a conflict of interest situation that would preclude the consultant being a proper party to the counselor's efforts to help the client. Should counselors be engaged in a work setting that compromises this consultation standard, they shall consult with other professionals whenever possible to consider justifiable alternatives.

2. **Consultant Competency.** Counselors shall be reasonably certain that they have or the organization represented has the necessary competencies and resources for giving the kind of consulting services needed and that appropriate referral resources are available.

3. **Understanding with Clients.** When providing consultation, counselors shall attempt to develop with their clients a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

4. **Consultant Goals.** The Consulting relationship is one in which client adaptability and growth toward self-direction shall be consistently encouraged and cultivated.

C. Fees for Referral

1. **Accepting Fees from Agency Clients.** Counselors shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

2. **Referral Fees.** Counselors shall not accept a referral fee from other professionals.

D. **Subcontractor Arrangements.** When counselors work as subcontractors for counseling services for a third party, they shall have a duty to inform clients of the limitations of confidentiality that the organization may place on counselors in providing counseling services to clients. The limits of such confidentiality ordinarily shall be discussed as part of the intake session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2111. Evaluation, Appraisal, and Interpretation

A. General

1. **Appraisal Techniques.** The primary purpose of appraisal (henceforth known as "appraisal") is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors shall recognize the need to interpret the statements in this section as applying to the whole range of appraisal techniques, including test and non-test data. Counselors shall recognize their legal parameters in utilizing formalized appraisal techniques and adhere to such.

2. **Client Welfare.** Counselors shall promote the welfare and best interests of the client in the development, publication and utilization of appraisal techniques. They shall not misuse appraisal results and interpretations and shall take reasonable steps to prevent others from misusing the information these techniques provide. They shall respect the client's right to know the result, the interpretations made, and the bases for their conclusions and recommendations.

B. Competence to Use and Interpret Tests

1. **Limits of Competence.** Counselors shall recognize the limits of their competence and perform only those testing and appraisal services for which they have been trained and is within RS 37:1101-1122. They shall be familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer-based test interpretations shall be trained in the construction being measured and the specific instrument being used prior to using this type of computer application. Counselors shall take reasonable measures to ensure the proper use of formalized appraisal techniques by persons under their supervision.

2. **Appropriate Use.** Counselors shall be responsible for the appropriate application, scoring, interpretation, and use of appraisal instruments, whether they score and interpret such tests themselves or use computerized or other services.

3. **Decisions Based on Results.** Counselors shall be responsible for decisions involving individuals or policies that are based on appraisal results have a thorough understanding of formalized measurement technique, including validation criteria, test research, and guidelines for test development and use.

4. **Accurate Information.** Counselors shall provide accurate information and avoid false claims or misconceptions when making statements about formalized appraisal instruments or techniques.

C. Informed Consent

1. **Explanation to Clients.** Prior to performing such, counselors shall explain the nature and purposes of a formal appraisal and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless as explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, or by computer or other outside services, counselors shall take reasonable steps to ensure that appropriate explanations are given to the client.

2. **Recipients of Results.** The examinee's welfare, explicit understanding, and prior agreement shall determine the recipients of test results. Counselors shall include

accurate and appropriate interpretations with any release of individual or group test results.

D. Release of Information to Competent Professionals

1. **Misuse of Results.** Counselors shall not misuse appraisal results, including test results, and interpretations, and shall take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Counselors shall ordinarily release data (e.g., protocols, counseling or interview notes, or questionnaires) in which the client is identified only with the consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data.

E. Test Selection

1. **Appropriateness of Instruments.** Counselors shall carefully consider the validity, reliability, psychometric limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

2. **Culturally Diverse Populations.** Counselors shall be cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

F. Conditions of Test Administration

1. **Administration Conditions.** Counselors shall administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session, those conditions shall be noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Counselors shall be responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration.

3. **Unsupervised Test-Taking.** Counselors shall not permit unsupervised or inadequately supervised use of tests or appraisals unless the tests or appraisals are designed, intended, and validated for self-administration and/or scoring.

4. **Disclosure of Favorable Conditions.** Prior to test administration, conditions that produce most favorable test results shall be made known to the examinee.

G Diversity in Testing Counselors shall be cautious in using appraisal techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They shall recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors.

H. Test Scoring and Interpretation

1. **Reporting Reservations.** In reporting appraisal results, counselors shall indicate any reservations that exist regarding validity or reliability because of the circumstances of the appraisal or the inappropriateness of the norms for the person tested.

2. **Research Instruments.** Counselors shall exercise caution when interpreting the results of research instruments

possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments shall be stated explicitly to the examinee.

3. **Testing Services.** Counselors who provide test scoring and test interpretation services to support the appraisal process shall confirm the validity of such interpretations. They shall accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service shall be considered a professional-to-professional consultation. The formal responsibility of the consultant shall be to the consultee, but the ultimate and overriding responsibility shall be to the client.

I. **Test Security.** Counselors shall maintain the integrity and security of tests and other appraisal techniques consistent with legal and contractual obligations. Counselors shall not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

J. **Obsolete Tests and Outdated Test Results.** Counselors shall not use data or test results that are obsolete or outdated for the current purpose. Counselors shall make every effort to prevent the misuse of obsolete measures and test data by others.

K. **Test Construction.** Counselors shall use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of appraisal techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2113. Teaching, Training, and Supervision

A. Counselor Educators and Trainers

1. **Educators as Teachers and Practitioners.** Counselors who are responsible for developing, implementing, and supervising educational programs shall be skilled as teachers and practitioners. They shall be knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, shall be skilled in applying that knowledge, and shall make students and supervisees aware of their responsibilities. Counselors shall conduct counselor education and training programs in an ethical manner and shall serve as role models for professional behavior. Counselor educators shall make an effort to infuse material related to human diversity into all courses and/or workshops that are designed to promote the development of professional counselors.

2. **Relationship Boundaries with Students and Supervisees.** Counselors shall clearly define and maintain ethical, professional, and social relationship boundaries with their students and supervisees. They shall be aware of the differential in power that exists and the student's or supervisee's possible incomprehension of that power differential. Counselors shall explain to students and supervisees the potential for the relationship to become exploitive.

3. **Sexual Relationships.** Counselors shall not engage in sexual relationships with students or supervisees and shall not subject them to sexual harassment.

4. **Contributions to Research.** Counselors shall give credit to students or supervisees for their contributions to research and scholarly projects. Credit shall be given through co-authorship, acknowledgment, footnote statement, or other appropriate means, in accordance with such contributions.

5. **Close Relatives.** Counselors shall not accept close relatives as students or supervisees.

6. **Supervision Preparations.** Counselors who offer clinical supervision services shall be adequately prepared in supervision methods and techniques. Counselors who are doctoral students serving as practicum or internship supervisors to master's level students shall be adequately prepared and supervised by the training program.

7. **Responsibility for Services to Clients.** Counselors who supervise the counseling services of others shall take reasonable measures to ensure that counseling services provided to clients are professional.

8. **Endorsement.** Counselors shall not endorse students or supervisees for certification, licensure, employment, or completion of an academic or training program if they believe students or supervisees are not qualified for the endorsement. Counselors shall take reasonable steps to assist students or supervisees who are not qualified for endorsement to become qualified.

B. Counselor Education and Training Programs

1. **Orientation.** Prior to admission, counselors shall orient prospective students to the counselor education or training program's expectations, including but not limited to the following:

- a. the type and level of skill acquisition required for successful completion of the training;
- b. subject matter to be covered;
- c. basis for evaluation;
- d. training components that encourage self-growth or self-disclosure as part of the training process;
- e. the type of supervision settings and requirements of the sites for required clinical field experiences;
- f. student and supervisee evaluation and dismissal policies and procedures; and
- g. up-to-date employment prospects for graduates.

2. **Integration of Study and Practice.** Counselors shall establish counselor education and training programs that integrate academic study and supervised practice.

3. **Evaluation.** Counselors shall clearly state to students and supervisees, in advance of training, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and experiential components. Counselors shall provide students and supervisees with periodic performance appraisal and evaluation feedback throughout the training program.

4. **Teaching Ethics.** Counselors shall make students and supervisees aware of the ethical responsibilities and standards of the profession and the students' and supervisees' ethical responsibilities to the profession.

5. **Peer Relationships.** When students or supervisees are assigned to lead counseling groups or provide clinical supervision for their peers, counselors shall take steps to ensure that students and supervisees placed in these roles do not have personal or adverse relationships with peers and that they understand they have the same ethical obligations as counselor educators, trainers, and supervisors. Counselors

shall make every effort to ensure that the rights of peers are not compromised when students or supervisees are assigned to lead counseling groups or provide clinical supervision.

6. Varied Theoretical Positions. Counselors shall present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors shall provide information concerning the scientific bases of professional practice.

7. Field Placement. Counselors shall develop clear policies within their training program regarding field placement and other clinical experiences. Counselors shall provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They shall confirm that site supervisors are qualified to provide supervision and are informed of their professional and ethical responsibilities in this role.

8. Dual Relationships as Supervisors. Counselors shall avoid dual relationships such as performing the role of site supervisor and training program supervisor in the student's or supervisee's training program. Counselors shall not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for student or supervisee placement.

9. Diversity in Programs. Counselors shall be responsive to their institution's and program's recruitment and retention needs for training program administrators, faculty, and students with diverse backgrounds and special needs.

C. Students and Supervisees

1. Limitations. Counselors, through ongoing evaluation and appraisal, shall be aware of the academic and personal limitations of students and supervisees that might impede performance. Counselors shall assist students and supervisees in securing remedial assistance when needed, and dismiss from the training program supervisees who are unable to provide competent service due to academic or personal limitations. Counselors shall seek professional consultation and document their decision to dismiss or refer students or supervisees for assistance. Counselors shall assure that students and supervisees have recourse to address decisions made, to require them to seek assistance, or to dismiss them.

2. Self-Growth Experience. Counselors shall use professional judgment when designing training experiences conducted by the counselors themselves that require student and supervisee self-growth or self-disclosure. Safeguards shall be provided so that students and supervisees are aware of the ramifications their self-disclosure may have on counselors whose primary role as teacher, trainer, or supervisor requires acting on ethical obligations to the profession. Evaluative components of experiential training experiences shall explicitly delineate predetermined academic standards that are separate and not dependent on the student's level of self-disclosure.

3. Counseling for Students and Supervisees. If students or supervisees request counseling, supervisors or counselor educators shall provide them with acceptable referrals. Supervisors or counselor educators shall not serve as counselor to students or supervisees over whom they hold administrative, teaching, or evaluative roles unless this is a brief role associated with a training experience.

4. Clients of Students and Supervisees. Counselors shall make every effort to ensure that the clients at field placements are aware of the services rendered and the qualifications of the students and supervisees rendering those services. Clients shall receive professional disclosure information and shall be informed of the limits of confidentiality. Client permission shall be obtained in order for the students and supervisees to use any information concerning the counseling relationship in the training process.

5. Standards for Students and Supervisees. Students and supervisees preparing to become counselors shall adhere to the Code of Ethics and the Standards of Practice. Students and supervisees shall have the same obligations to clients as those required of counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28::

§2115. Research and Publication

A. Research Responsibilities

1. Use of Human Subjects. Counselors shall plan, design, conduct, and report research in a manner consistent with pertinent ethical principles, federal and state laws, host institutional regulations, and scientific standards governing research with human subjects. Counselors shall design and conduct research that reflects cultural sensitivity appropriateness.

2. Deviation from Standard Practices. Counselors shall seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard acceptable practices.

3. Precautions to Avoid Injury. Counselors who conduct research with human subjects shall be responsible for the subjects' welfare throughout the experiment and shall take reasonable precautions to avoid causing injurious psychological, physical, or social effects to their subjects.

4. Principal Researcher Responsibility. The ultimate responsibility for ethical research practice shall lie with the principal researcher. All others involved in the research activities shall share ethical obligations and full responsibility for their own actions.

5. Minimal Interference. Counselors shall take reasonable precautions to avoid causing disruptions in subjects' lives due to participation in research.

6. Diversity. Counselors shall be sensitive to diversity and research issues with special populations. They shall seek consultation when appropriate.

B. Informed Consent

1. Topics Disclosed. In obtaining informed consent for research, counselors shall use language that is understandable to research participants and that:

a. accurately explains the purpose and procedures to be followed;

b. identifies any procedures that are experimental or relatively untried;

c. describes the attendant discomforts and risks;

d. describes the benefits or changes in individuals or organizations that might be reasonably expected;

e. discloses appropriate alternative procedures that would be advantageous for subjects;

f. offers to answer any inquiries concerning the procedures;

g. describes any limitations on confidentiality; and

h. instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time.

2. Deception. Counselors shall not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. When the methodological requirements of a study necessitate concealment or deception, the investigator shall be required to explain clearly the reasons for this action as soon as possible.

3. Voluntary Participation. Participation in research shall be typically voluntary and without any penalty for refusal to participate. Involuntary participation shall be appropriate only when it can be demonstrated that participation will have no harmful effects on subjects and is essential to the investigation.

4. Confidentiality of Information. Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, shall be explained to participants as a part of the procedure for obtaining informed consent.

5. Persons Incapable of Giving Informed Consent. When a person is incapable of giving informed consent, counselors shall provide an appropriate explanation, obtain agreement for participation and shall obtain appropriate consent from a legally authorized person.

6. Commitments to Participants. Counselors shall take reasonable measures to honor all commitments to research participants.

7. Explanations after Data Collections. After data are collected, counselors shall provide participants with full clarification of the nature of the study to remove any misconceptions. Where scientific or human values justify delaying or withholding information, counselors shall take reasonable measures to avoid causing harm.

8. Agreements to Cooperate. Counselors who agree to cooperate with another individual in research or publication incur an obligation to cooperate as promised in terms of punctuality of performance and with regard to the completeness and accuracy of the information required.

9. Informed Consent for Sponsors. In the pursuit of research, counselors shall give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors shall be aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

C. Reporting Results

1. Information Affecting Outcome. When reporting research results, counselors shall explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data.

2. Accurate Results. Counselors shall plan, conduct, and report research accurately and in a manner that

minimizes the possibility that results will be misleading. They shall provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors shall not engage in fraudulent research, distort data, misrepresent data, or deliberately bias their results.

3. Obligation to Report Unfavorable Results. Counselors shall communicate to other counselors the results of any research judged to be of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests shall not withheld.

4. Identity of Subjects. Counselors who supply data, aid in the research of another person, report research results, or make original data available shall take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise.

5. Replication Studies. Counselors shall be obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

D. Publication

1. Recognition of Others. When conducting and reporting research, counselors shall be familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

2. Contributors. Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor shall be listed first and minor technical or professional contributions shall be acknowledged in notes or introductory statements.

3. Student Research. For an article that is substantially based on a student's dissertation or thesis, the student shall be listed as the principal author.

4. Duplicate Submission. Counselors shall submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work shall not be submitted for publication without acknowledgment and permission from the previous publication.

5. Professional Review. Counselors who review material submitted for publication, research, or other scholarly purposes shall respect the confidentiality and proprietary rights of those who submitted it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2117. Resolving Ethical Issues

A. Knowledge of Standards. Counselors shall be familiar with the Code of Ethics and the Standards of Practice and other applicable ethics codes from other professional organizations of which they are members, or from certification and licensure bodies. Lack of knowledge or misunderstanding of an ethical responsibility shall not be a defense against a charge of unethical conduct.

B. Suspected Violations.

1. Ethical Behavior Expected. Counselors shall expect professional associates to adhere to Code of Ethics. When counselors possess reasonable cause that raises doubts as to whether a counselor is acting in an ethical manner, they shall take appropriate action.

2. Consultation. When uncertain as to whether a particular situation or course of action may be in violation of Code of Ethics, counselors shall consult with other counselors who are knowledgeable about ethics, with colleagues, or with appropriate authorities.

3. Organization Conflicts. If the demands of an organization with which counselors are affiliated pose a conflict with Code of Ethics, counselors shall specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to Code of Ethics. When possible, counselors shall work toward change within the organization to allow full adherence to Code of Ethics.

4. Informal Resolution. When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they shall attempt to first resolve the issue informally with the other counselor if feasible, providing that such action does not violate confidentiality rights that may be involved.

5. Reporting Suspected Violations. When an informal resolution is not appropriate or feasible, counselors, upon reasonable cause, shall take action such as reporting the suspected ethical violation to state or national ethics committee, unless this action conflicts with confidentiality rights that cannot be resolved.

6. Unwarranted Complaints. Counselors shall not initiate, participate in, or encourage the filing of ethics complaints that are unwarranted or intend to harm a counselor rather than to protect clients or the public.

C. Cooperation with Ethics Committees. Counselors shall assist in the process of enforcing Code of Ethics. Counselors shall cooperate with investigations, proceedings, and requirements of the ACA Ethics Committee or ethics committees of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors shall be familiar with the ACA Policies and Procedures and use it as a reference in assisting the enforcement of the Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2118. Appendix C Declaration of Practices and Procedures for Licensed Professional Counselors

A. The following comprises the information that must be available in writing for each client seen by a Licensed Professional Counselor/Counselor Intern in the state of Louisiana. Counselors/Counselor Interns must read and incorporate the Code of Conduct for Professional Counselors in their declaration statement.

1. LPC/Counselor Intern's name, mailing address, and telephone number.

2. Qualifications

a. Include degrees earned and institution(s) attended.

b. Give your license number, specifying the LPC Board of Examiners including address and telephone number as the grantor of your license.

c. An individual under supervision must refer to him/herself as a Counselor Intern and include the name and address of his/her Board approved supervisor.

3. Counseling Relationship

a. Provide a general statement about the dynamics of the counseling relationship.

b. Include general goals for clients.

4. Areas of Expertise

a. List your areas of expertise such as career counseling, marriage and family counseling, adolescents, etc.

b. List your national certifications in counseling.

5. Fee Scales

a. List your fees and describe your billing policies.

b. Describe your policy on scheduling and breaking appointments.

c. State your policy on insurance payments.

6. Explanation of the Types of Services Offered and Clients Serves

a. Include the theoretical basis and the type of techniques and/or strategies that you use in therapy; b) specify the modality you use such as group and/or individual therapy.

c. Specify the type(s) of clients you serve.

7. Code of Conduct: state that you are required by state law to adhere to a Code of Conduct for your practice which is determined by the Louisiana Licensing Board, and a copy of this Code is available on request.

8. Privileged Communication. Describe the rules governing privileged communication and include the limits of confidentiality.

9. Emergency Situations. Describe your policy for emergency client situations.

10. Client Responsibilities. List client responsibilities, e.g. clients are expected to follow office procedures for keeping appointments, clients must pay for services at the time of each visit, and clients must (terminate the counseling relationship before being seen by another mental health professional) notify the counselor of any other ongoing professional mental health relationship. If a client is seeing another mental health professional (psychologist, board certified social worker, etc.), then permission must be granted by the first therapist for the second to work with the same client. (See Code of Conduct).

11. Physical Health. Suggest that client have a complete physical examination if he/she has not had one within the past year. Also have client list any medications that he/she may be taking.

12. Potential Counseling Risks. Indicate that as a result of mental health counseling, the client may realize that he/she has additional issues which may not have surfaced prior to the onset of the counseling relationship. The counselor may also indicate possible risk within specific specialty areas (i.e., Marriage and Family) as one partner changes, additional strain may be placed on the marital relationship if the other partner refuses to work).

13. It is also required that a place be provided for the signatures of the counselor/counselor intern, the client(s), and the counselor intern's supervisor. A general statement indicating that the client has read and understands the declaration statement and the date of the signature must also be included.

B. To practice mental health counseling in Louisiana the Licensed Professional Counselor must have a copy of his/her declaration statement on file in the LPC Board office. The

Counselor Intern must include a copy of his/her declaration statement with his/her Registration of Supervision. The Code of Conduct can be duplicated for clients and additional copies are available from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists

Chapter 27. General Provisions

§2701. Statement of Purpose

A. "The legislature does further hereby find and declare that marriage and family therapy in this state is a professional practice which affects the public safety and welfare of the citizens of the state and requires appropriate regulation and control in the public interest. It is a purpose of this Chapter to establish a regulatory structure and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy." (R.S. 37:1102)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2703. Statutory Authority of the Marriage and Family Therapy Advisory Committee

A. The Marriage and Family Therapy Advisory Committee was created and empowered by Act 1195 of the 2001 Legislature to provide for the regulation of the use of the title "Licensed Marriage and Family Therapist" (R.S. 37:1101-1122). Therefore, the Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, establishes the Marriage and Family Therapy Advisory Committee as directed by the 2001 Legislature. The Marriage and Family Therapy Advisory Committee shall develop the rules and regulations herein pursuant to the authority granted to, and imposed upon said advisory committee under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13: §1101-1122. The Health and Welfare Committees in the House and Senate shall jointly approve these rules and regulations. The board shall promulgate these rules and regulations [R.S. 37:1104(B)(2)(b)]. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as licensed marriage and family therapists upon recommendation of the Marriage and Family Therapy Advisory Committee. [R.S. 37:1105(G)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2705. Description of Organization

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of three members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists except for the first three members who shall be members of the American Association for Marriage and Family Therapy. These first three advisory committee members shall be

eligible for licensure as licensed marriage and family therapists under Title 37, Chapter 13 as soon as these Rules and regulations are approved. Two advisory committee members shall be members of the board.

B. The governor shall make appointments to the board and the advisory committee from a list of qualified candidates submitted by the board of the Louisiana Association of Marriage and Family Therapy, hereinafter referred to as LAMFT. LAMFT shall specify which candidates are to be appointed to the board. Each appointment by the governor shall be submitted to the Senate for confirmation.

C. Board member terms shall be for four years; non-board member terms shall be for three years. No advisory committee member shall serve more than two full consecutive terms.

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LAMFT board as prescribed in Section 1104 of R.S. 37:1101-1122.

E. No advisory committee member shall be liable in any civil action for any act performed in good faith in the execution of his or her duties under Chapter 13 of Title 37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2707. Reimbursement

A. Each advisory committee member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board or advisory committee business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§2709. Notification of Change

A. Licensed marriage and family therapists/interns and LMFT-approved supervisors/supervisors-in-training shall notify the Licensed Professional Counselors Board of Examiners in writing of any and all changes in name, address, and phone number within 30 days. Failure to do so will result in a fine as set forth in §901.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties

§2901. Officers

A. The advisory committee shall elect from its membership a chair, vice chair, and secretary. The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and these rules. The chair is authorized by the board to make day-to-day decisions regarding advisory committee activities to facilitate its responsiveness and effectiveness. The vice chair shall perform the duties of the chair if the chair is absent or disabled. If the office of chair becomes vacant, the

vice chair shall serve as chair until a successor is named. The secretary shall keep the minutes of the advisory committee meetings and send them to the advisory committee members and the clerical secretary before the next meeting of the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2903. Meetings

A. The advisory committee shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the advisory committee. Advisory committee meetings shall be held at least semiannually. The advisory committee shall hold meetings regularly, with prior approval from the Board, to conduct its business. Reasonable notice of all advisory committee meetings will be given by posting the meeting place, time, and agenda 24 hours before the meeting on the door and in two places in the building housing the office of the board and on the door of the location of the meeting, if different from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2905. Quorum

A. Two members of the advisory committee shall constitute a quorum at any meeting or hearing for the transaction of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2907. Procedures

A. The advisory committee shall develop such rules and regulations as it deems necessary to effect the provisions of Act 1195 (Chapter 13, R.S. 37:1101-1122). The board shall promulgate these rules and regulations. The House and Senate Health and Welfare Committees shall jointly approve these rules and regulations.

B. The advisory committee shall review applications for examination, licensure, and renewal for recommended approval to the board. The advisory committee shall recommend to the board to withhold, deny, revoke, or suspend any license of an applicant, or impose any other sanctions on licensed marriage and family therapists.

C. The advisory committee shall submit an annual report to the board containing its professional actions during the year. The advisory committee hereby adopts Robert's Rules of Order Revised as the basis of its parliamentary decisions except as otherwise provided by advisory committee rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2909. Code of Ethics

A. The advisory committee has adopted the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT), including any revisions or additions

deemed appropriate or necessary by the board as recommended by advisory committee. AAMFT has given its written permission to use its code of ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§2911. Records

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of approved supervisors and supervisors-in-training and a register of licensed marriage and family therapists shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

Chapter 31. License of Title for Marriage and Family Therapy

§3101. License of Title for Marriage and Family Therapy

A. As stated in R.S. 37:1122.A, no person, unless licensed as a marriage and family therapist, shall advertise as being a "licensed marriage and family therapist" or hold themselves out to the public or make use of any title, words, letters or abbreviations that may reasonably be confused with the title "licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3103. Practice of Marriage and Family Therapy by Other Licensed Mental Health Professionals

A. Nothing in this subpart shall be construed as prohibiting qualified members of other professional groups including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. No such person, however, shall use the title, or use any words or abbreviations that may reasonably be confused with the title, "licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3105. Definitions for Licensed Marriage and Family Therapists

Advisory Committee—the Marriage and Family Therapy Advisory Committee.

Assessment—

1. the evaluation through the use of systems oriented methods and processes of:

- a. individual;
- b. couple;

- c. family; and
- d. larger systems ;
- 2. for the purpose of :
 - a. developing treatment plans;
 - b. monitoring psychotherapeutic processes;
 - c. measuring psychotherapeutic progress; and
 - d. measuring psychotherapeutic outcomes;
- 3. such evaluation may include the use of :
 - a. informal; or
 - b. formal instruments;
- 4. for which the licensed marriage and family therapist has received:
 - a. appropriate training; and
 - b. supervision in:
 - i. individual settings; and
 - ii. group settings.

Board—the Louisiana Licensed Professional Counselors Board of Examiners

Marriage and Family Therapy—the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of

- 1. individuals;
- 2. couples, and
- 3. families.

Qualified Supervision—the supervision of the clinical services of an applicant working toward licensure as a licensed marriage and family therapist

- 1. in accordance with standards developed by the advisory committee and
- 2. by an individual who has been recognized by the advisory committee as an LMFT-approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 33. Requirements for Licensure

§3301. General Provisions

A. The board upon recommendation of the marriage and family therapy advisory committee shall license to practice all persons who present satisfactory evidence of qualifications as specified in these rules and regulations of the advisory committee. Such licensure shall be signed by the chairman and vice chairman of the board and the chairman and vice chairman of the advisory committee. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3303. Definitions

Allied Mental Health Discipline—includes, but may not be limited to, mental health counseling, social work, psychology, psychiatric nursing, and psychiatry.

Applicant—any individual seeking licensure who has submitted an official application and paid the application fee.

Appropriate Graduate Degree—a master's or doctoral degree from a college or university accredited by the

Southern Association of Colleges and Schools (SACS), or a comparable accrediting body. If a discipline requires a specific terminal degree, that degree will be considered the appropriate degree.

Client Contact Hour—A 50-minute period a therapist spends working face-to-face with an individual, couple, family, or group.

Direct Client Contact—face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as direct client contact.

Licensed Marriage And Family Therapist Intern Or MFT Intern—a person who has earned a qualifying graduate degree and is receiving MFT approved postgraduate supervision.

Recognized Educational Institution—a postgraduate training institute or any regionally accredited educational institution that grants a master's or doctoral degree that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee or, until June 30, 2003, the standards for marriage and family counseling or therapy established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision .

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3305. General Licensing Requirements

- A. To become licensed, an applicant must:
 - 1. be of good moral character;
 - 2. never have engaged in any practice or conduct that would be grounds for refusing to issue a license;
 - 3. be qualified for licensure pursuant to the requirements provided for in this Subpart;
 - 4. file a completed application form, accompanied by the required fee;
 - 5. ask that official transcripts be sent directly from the education institution for the applicants' files;
 - 6. provide a statement of practice (refer to the Appendix) for review and approval by the advisory committee. Applicants also licensed by one or more other allied mental health professions may integrate the requirements specific to licensed marriage and family therapy as determined by the advisory committee into any similar informed consent document required for licensure by such allied mental health professions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3307. Specific Licensing Requirements for

Applications Made on or before January 1, 2003

A. On applications postmarked on or before January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Specific requirements for §3307 may be met in one of four ways:

a. an appropriate graduate degree and two years of supervised clinical experience:

i. the applicant must have an appropriate graduate degree in:

(a). marriage and family therapy; or

(b). an allied mental health discipline; and

ii. have completed, after the receipt of a qualifying degree:

(a). at least two years of supervised clinical experience; and

(b). a minimum of 1,000 hours of direct client contact;

(i.) in the practice of marriage and family

therapy; or

(ii.) as part of the scope of practice of an allied mental health discipline;

b. persons with appropriate graduate degrees who do not meet the two years of supervised clinical experience may apply to become MFT interns:

i. the minimum of 1,000 hours of direct client contact may be met by:

(a). supervised clinical experience obtained in the degree program beyond that required for the degree; and

(b). supervision recommended for approval by the advisory committee;

ii. applicants may not become licensed without two years of post-degree clinical experience;

c. current clinical membership in the Association for Marriage and Family Therapy (AAMFT);

i. verification of such membership sent directly from AAMFT will be accepted as a presumption of having met both the educational and clinical experience required;

d. a valid license from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana as specified in Subparagraph A.1.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3309. Specific Licensing Requirements for

Applications Made after January 1, 2003

A. For applications postmarked after January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Summary of Specific Requirements for §3309

a. Academic Requirements

i. A master's or doctoral degree from a marriage and family therapy program that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee in a regionally accredited educational institution or training from a

postgraduate training institute that meets the standards established by COAMFTE as determined by the advisory committee; or

ii. until June 30, 2003, a master's or doctoral degree in mental health counseling with a specialization in marriage and family counseling that substantially meets the standards established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision from a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by CACREP as determined by the ad hoc committee on licensure and supervision; or

iii. an appropriate graduate degree in an allied mental health field from a regionally accredited educational institution with graduate level coursework equivalent to:

(a). a master's degree in marriage and family therapy that meets the standards established by COAMFTE as determined by the advisory committee and specified in §3311 Academic Requirements for Equivalency; or

(i). until June 30, 2003, the standards for marriage and family counseling or therapy established by CACREP as determined by the ad hoc committee on licensure and supervision and specified in §3311. Academic Requirements for Equivalency.

b. Supervision Requirements

i. Applicants must complete a minimum of two years of supervised work experience in marriage and family therapy as specified in §3315 Supervision Requirements after receipt of a qualifying degree.

c. Examination Requirements

i. Applicants must pass the national examination in marriage and family therapy as specified in §3313 Examination Requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3311. Academic Requirements for Equivalency after January 1, 2003

A. General

1. An applicant must have completed a minimum of forty eight semester hours or its equivalent of graduate coursework.

2. One course is defined as three semester credits, four quarter credits, or 45 didactic contact hours (i.e., lecture hours).

3. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

4. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

5. Only coursework taken for credit and receiving a passing grade will be accepted.

6. Coursework taken outside of a program of studies for which a degree was granted must receive an "A," "B," or "pass."

7. In a postgraduate training program, a minimum of 45 contact hours will be considered equivalent to a three-hour semester credit course.

8. An applicant who wishes to make up academic deficiencies may propose a plan of additional coursework to the advisory committee.

9. An applicant who has completed a master's degree program in marriage and family therapy or counseling that was accredited by the Council on the Accreditation of Counseling and Related Educational Programs (CACREP) and has a minimum of six graduate courses in Marriage and Family Therapy, will be determined by the Advisory Committee and the Board to have met the equivalency of standards established by the Commission on Accreditation for Marriage and Family Education (COAMFTE).

B. Specific equivalency requirements that meet the standards for marriage and family therapy established by COAMFTE as determined by the advisory committee.

1. Academic Course Content. An applicant with a graduate degree in an allied mental health field must have coursework in each of the following areas (one course equals three semester hours).

a. Theoretical Knowledge of Marriage and Family Therapy—a minimum of two courses.

i. Courses in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns. Students will be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. Materials covered will provide a comprehensive survey and substantive understanding of the major models of marriage, couple, and family therapy.

b. Clinical Knowledge of Marriage and Family Therapy—a minimum of four courses.

i. Courses in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy—a minimum of two courses

i. Courses in this area shall contain such content from a relational/systemic perspective as: 1) psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues; One course must be in psychopathology.

d. Individual, Couple, and Family Development—a minimum of one course.

i. Courses in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics—a minimum of 1 course.

i. Courses in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure, and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual, couple, and family therapy. A generic course in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d). the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research—a minimum of one course.

i. Courses in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Additional Learning—a minimum of one course.

i. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Supervised Clinical Practicum—five hundred supervised direct client contact hours with 100 hours of face-to-face supervision. At least 250 of these hours will be with couples or families present in the therapy room.

a. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

b. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

C. Until June 30, 2003, specific equivalency requirements that meet the standards for marriage and family counseling/therapy established by CACREP as determined by the committee on mental health counseling licensure/supervision for the advisory committee.

1. Academic Course Content: To fulfill the CACREP requirements of the academic component for eligibility, the applicant must have completed a minimum of four courses from the following areas.

a. Foundations of Marital, Couple, And Family Counseling/Therapy:

i. The history of marital, couple, and family counseling/therapy including philosophical and etiological premises that define the practice of marital, couple, and family counseling/therapy;

ii. the structure and operations of professional organizations, preparation standards, and credentialing bodies pertaining to the practice of marital, couple, and family counseling/therapy (e.g., the International Association of Marriage and Family Counselors);

iii. the ethical and legal considerations specifically related to the practice of marital, couple, and family counseling/therapy (e.g., the *ACA* and *IAMFC Code of Ethics*);

iv. the implications of professional issues unique to marital, couple, and family counseling/therapy including recognition, reimbursement, and right to practice;

v. the role of marital, couple, and family counselors/therapists in a variety of practice settings and in relation to other helping professionals; and

vi. the role of racial, ethnic, and cultural heritage, nationality, socioeconomic status, family structure, age, gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in marital, couple, and family counseling/therapy.

b. Contextual Dimensions of Marital, Couple, and Family Counseling/Therapy

i. Marital, couple, and family life cycle dynamics, healthy family structures, and development in a multicultural society, family of origin and intergenerational influences, cultural heritage, socioeconomic status, and belief systems;

ii human sexuality issues and their impact on family and couple functioning, and strategies for their resolution; and

iii. societal trends and treatment issues related to working with diverse family systems (e.g., families in transition, dual-career couples, and blended families).

c. Knowledge and Skill Requirements For Marital, Couple, and Family Counselor/Therapists

i. Family systems theories and other relevant theories and their application in working with couples and families, and other systems (e.g., legal, legislative, school and community systems) and with individuals;

ii. interviewing, assessment, and case management skills for working with individuals, couples, families, and other systems; and implementing appropriate skill in systemic interventions;

iii. preventive approaches for working with individuals, couples, families, and other systems such as pre-marital counseling, parenting skills training, and relationship enhancement;

iv. specific problems that impede family functioning, including issues related to socioeconomic disadvantage, discrimination and bias, addictive behaviors, person abuse, and interventions for their resolution; and

v. research and technology applications in marital, couple, and family counseling/therapy.

2. The supervised CACREP clinical practice must include:

a. a 100-hour practicum, of which forty hours must be direct client contact, and

b. a 600-hour internship, of which two hundred forty hours must be direct hour contact. The requirements for this internship are:

i. it must occur in a counseling setting, under the clinical supervision of a site supervisor;

ii. direct service clock hours are defined as work with couples, families, and individuals from a systems perspective;

iii. at least half of the direct service clock hours must be with couples and family units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3313. Examination Requirements

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee.

B. Applicants for licensure are not eligible for examination until approved by the advisory committee.

C. Passing scores on the examination are determined by the testing agency.

D. Any person who fails an examination shall not be admitted to a subsequent examination for at least six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3715. Supervision Requirements

A. General Provisions

1. Applicants who apply before January 1, 2003, who meet the degree requirements but do not meet the experience requirements and applicants who apply after January 1, 2003, who meet the degree requirements must successfully complete two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this section.

B. Definitions for Supervision

Co-Therapy Supervision—supervision outside the session on cases in which the supervisor is a co-therapist.

Consultation—a voluntary relationship between professionals of relative equal expertise or status wherein the person being consulted offers his/her best advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority over the person asking for assistance, no legal or professional accountability for either the services performed or the welfare of the client. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

Group Supervision—face to face supervision of more than two MFT Interns and no more than six MFT Interns per group regardless of the number of supervisors. Group supervision provides the opportunity for the supervisees to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

Individual Supervision—face-to-face supervision of one or two individuals by one supervisor.

LMFT-Approved Supervisor—an individual who has met requirements and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing. The supervisor is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

LMFT-Approved Supervisor Candidate—an individual under the supervision of an LMFT-approved supervisor for the purpose of qualifying as an LMFT-approved supervisor.

Live Supervision—supervision (individual and /or group) in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts live supervision the time is counted as individual supervision for up to two interns providing therapy in the room with the client(s) and for up to two interns observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two MFT interns involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six interns involved.

MFT Intern—a individual who has been recommended by the LMFT Advisory Committee and approved by the Board for supervision by an LMFT-approved supervisor.

Qualified Supervision—supervision of the clinical services of an MFT intern by a supervisor recommended by the MFT Advisory Committee and approved by the Board.

Supervision—the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of licensed marriage and family therapy. In addition to monitoring the MFT intern's supervised interaction with clients, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation.

Supervised Experience Plan—a written agreement on a form required by the advisory committee that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

Supervision-in-Training Plan—a written agreement on a form required by the advisory committee that establishes the supervisory framework for supervision of a licensed marriage and family therapist-in-training to become an LMFT approved supervisor.

Work Experience—includes direct client contact and activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision,

C. Supervision Requirements for Licensure

1. After receipt of a qualifying degree an applicant must complete a minimum of two years of work experience in marriage and family therapy that includes at least three thousand hours of clinical services to individuals, couples, or families.

a. At least 2,000 hours of these hours must be direct clinical services.

b. The remaining 1,000 hours may come from related experiences that may include but are not limited to workshops, public relations, writing case notes, consulting with referral sources, etc.

c. Supervisees should apply systemic theories and treatment with all clients and make every effort to work with as many couples and families as possible.

2. The required supervision must include at least two hundred hours of supervision, of which at least 100 hours must be individual supervision. Up to 100 hours of supervision received during a graduate program that can be

documented as systemic may be counted toward the 200 hours.

3. The work experience shall be obtained over not less than two years.

4. After the supervision plan is submitted and fees are paid, the board upon recommendation of the advisory committee will approve supervisors before supervision begins. Supervision hours may not be counted until after approval. Approval of a supervised experience plan does not mean that the supervised experience when completed will be automatically approved.

5. To meet the requirements of the supervised clinical experience, the supervisee must:

a. meet face-to-face with the supervisor for sustained and intense learning customarily for one hour per 10 hours of client contact, with once every other week, the minimum; and three times a week ordinarily the maximum;

b. file with the advisory committee a supervised experience plan as defined in §3315.B Definitions for Supervision.

6. It is recommended that the supervisory experience include sequentially at least two supervisors with diverse family therapy orientations, such as, but not limited to, narrative, MRI, Bowenian, structural, strategic, behavioral, or solution focused.

7. The following are not acceptable as approved supervision:

a. peer supervision (supervision by a person of equivalent, rather than superior, qualifications, status and experience);

b. supervision by current or former family members (such as parents, spouse, former spouse, siblings, children, cousins, present or former in-laws, aunts, uncles, grandparents, grandchildren, step-children), anyone sharing the same household, employees, or any other person where the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship. For purposes of this rule, a supervisor shall not be considered an employee of the supervisee if the only compensation received by the supervisor consists of payment for actual supervisory hours;

c. administrative supervision (administrative supervision by an institutional director or executive, for example, conducted to evaluate job performance or for case management rather the clinical supervision of the quality of therapy given to clients);

d. a primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar;

e. consultation, staff development, or orientation to a field program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

D. Qualifications of a Supervisor and Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than ten supervisees and/or supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 30-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience Requirements

(a). has at least two years experience as a licensed as a Marriage and Family therapist.

iii. Supervision of Supervision

(a). Before January 1, 2004, an applicant must have 36 hours of supervision of supervision for marriage and family therapy from a person considered to be a qualified supervisor by the advisory committee.

(b). Before January 1, 2004, applicants with a degree in marriage and family therapy or its equivalent as determined by the advisory committee who meet the requirements in a, b, and c in this Paragraph will not be required to obtain the 36 hours of supervision of supervision.

(c). After January 1, 2004, supervision of supervision must be taken from an LMFT-approved supervisor.

b. Designation as an AAMFT Approved Supervisor qualifies a person to become an LMFT approved supervisor. Documentation must be submitted and recommended by the advisory committee for board approval.

4. LMFT Approved Supervisor-in-Training

a. A person who wishes to become an LMFT approved supervisor in-training must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation that he or has at least two years experience as a Licensed Marriage and Family Therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Subparagraph D.3.b or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the supervisor-in-training must submit an application to become an LMFT approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 35. Renewal of License

§3501 General Provisions

A. Licenses shall be renewed every two years in January. The licensee shall submit an application form and payment of the renewal fee. Renewals must be postmarked no later than December 31. Upon approval by the advisory committee, the board shall issue a document renewing the license for two years.

B. A license not renewed shall lapse December 31. To renew a lapsed license, the licensee must pay all fees in arrears and provide documentation of the continuing education requirements. A lapsed license not renewed within two years will expire and the individual must re-apply under the current rules for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1106, 1116-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3503. Continuing Education Requirements

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years.

2. One continuing education unit (CEU) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period. Renewal periods run from January 1 to December 31

5. The licensee is responsible for keeping a personal record of his/her continuing education hours until official notification of renewal is received. Do not forward documentation of continuing education hours to the Board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be requested by letter to submit documentation as specified in §3503.B of their continuing education hours.

7. Licensees will be asked in the renewal application to note any changes in areas of expertise. The advisory committee, at its discretion, may require the licensee to present satisfactory documentation supporting these changes.

8. A licensee must accrue three clock hours of training in ethics that specifically addresses ethics for licensed marriage and family therapy as defined in Subparagraph C.3.e every renewal period. A generic ethics class will not be acceptable.

9. Those licensed marriage and family therapists who hold another license that requires continuing education hours

may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEU's submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

10. The approval of and requirements for continuing education are specified in Subsection C.

B. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentation;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. Continuing education requirements are meant to ensure personal and professional development throughout an individual's career.

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. All continuing education hours may be obtained through Subparagraph a or 20 of the 40 hours may be obtained through Subparagraph b.

a. Direct participation in a structured educational format as a learner in continuing education workshops and presentations or in graduate coursework (either for credit or audit).

i. The advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3.

ii. Licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework.

iii. Continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Subclause (a) will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3503.C and given by a qualified presenter.

(c). A qualified presenter is considered to be someone at the master's level or above trained in marriage and family therapy or another appropriate mental health field.

(d). One may receive one clock hour of continuing

education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 43).

b. Optional Ways to Obtain Continuing Education (Twenty Hours Maximum)

i. Licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (10 hours maximum) in an area as described in Paragraph C.3 in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course; or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in Paragraph C.3. Articles must be published in a professional refereed journal.

ii. Presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas.

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns.

b. Clinical Knowledge of Marriage and Family Therapy: Continuing education in this area shall contain such content as:

i. couple and family therapy practice and be related conceptually to theory;

ii. contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the

treatment of individuals, couples, and families from a relational/systemic perspective;

- iii. a wide variety of presenting clinical problems;
- iv. issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;
- v. diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy. Continuing education in this area shall contain such content from a relational/systemic perspective as psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development. Continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy. Continuing education in this area shall contain such content as:

- i. professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;
- ii. ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;
- iii. the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;
- iv. the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy. Continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy: Continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 37. Reciprocity and Provisional Licenses

§3701. States, Territories, and Commonwealths

A. Upon application accompanied by the required fee:

1. the board through the advisory committee may issue a license to any person who has a valid license as a marriage and family therapist from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana;

2. the board through the advisory committee may develop rules to provide for the issuance of provisional

licenses for licensed marriage and family therapists for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 39. Disciplinary Proceedings

§3901. Causes for Administrative Action

A. The board, upon recommendation of the advisory committee, after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist on a finding that the person has violated R.S. 37: 1101-1122, any of the rules, regulations, and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. Additionally, the Board, upon recommendation of the advisory committee, may withhold, deny, revoke, or suspend any license issued or applied for, or otherwise discipline or an LMFT as provided by other applicable state or federal laws, including but not limited to the following violations:

1. failure to pay court-ordered child support (R.S. 37:2952 et seq.);
2. failure to pay certain student loans (R.S. 37:2951 et seq.);
3. failure to report suspected cases of child abuse or neglect (R.S. 14:403 et seq.);
4. failure to report suspected cases of abuse of the elderly (R.S. 14:403.2 et seq.);
5. failure to maintain patient records as required by law (R.S. 40:1299.96 et seq.)

B. Sometimes hereinafter, where the context allows, a licensed marriage and family therapist or applicant for licensure may be referred to as a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 28:

§3903. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict evidentiary rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health

Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage family therapy promulgated by the board for the advisory committee, or prior Final Decisions and/or Consent Orders involving the licensed marriage and family therapist or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3905. Initiation of Complaints

A. Any person or the advisory committee on their own initiative may initiate complaints.

B. All complaints shall be addressed "confidential" to the ad hoc Committee for Disciplinary Affairs (hereafter referred to as the disciplinary committee) and shall be sent to the board office. A member of the advisory committee shall be appointed to serve on the ad hoc Committee for Disciplinary Affairs, by the chair of the Board, and shall be empowered to act on behalf of the Advisory committee. He/she shall concur or disagree with the recommendation of the disciplinary committee chair and such concurrence or disagreement shall constitute the official recommendation of the advisory committee as to the complaint in question. The disciplinary committee shall convey the complaint to the board. By a simple majority, the Disciplinary Committee shall vote to investigate or deny the charge. If a denial, the chair of the Disciplinary Committee shall prepare the letters of denial. If an agreement to investigate, the board shall request that the Disciplinary Committee notify the person that allegations have been made that he/she may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he/she must respond in writing to the Disciplinary Committee within a specified time period. A response is to be made to the disciplinary committee at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his/her response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required. The Disciplinary Committee shall inform the board of its decision.

C. Pursuant to its authority to regulate this industry, the board, upon recommendation of the advisory committee through its Disciplinary Committee, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations or ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. The subpoenaed confidential or privileged records of a patient or client are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3907. Informal Disposition of Complaints

A. The board, upon recommendation of the Disciplinary Committee and the person accused of a violation may settle some complaints informally without a formal hearing. The disciplinary committee shall guide cases through any informal process, and, failing resolution, may recommend a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For less serious complaints, the disciplinary committee may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The disciplinary committee may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The board must consider the nature of the alleged offense and the evidence before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3909. Formal Hearing

A. The board upon recommendation of the Disciplinary Committee has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license upon recommendation of the advisory committee to practice as a licensed marriage and family therapist or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
2. the right of notice;
3. a statement of what accusations have been made;
4. the right to present evidence and to cross-examine; and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The disciplinary committee receives a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory

committee. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The disciplinary counsel investigates the complaint to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than disciplinary committee members may communicate with any party to a proceeding or his/her representative concerning any issue of fact or law involved in this stage of the proceeding.

b. A decision to initiate a formal complaint or charge may be made by the board if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the Ad Hoc Disciplinary Affairs Committee's correspondence concerning the complaint;
- iii. the person's response to the Ad Hoc Disciplinary Affairs Committee letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee thereto, or prior final decisions and/or consent orders involving the person.

4. The Board chair or disciplinary counsel sets a time and place for a hearing.

5.a. At least 20 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence that may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the Disciplinary Committee is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the Board chair and may only be granted for compelling reasons.

7.a. The Board chair or disciplinary counsel issues subpoenas for the board for disciplinary proceedings, and

when requested to do so, may issue subpoenas for any other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he/she has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8. a. The hearing is held, at which time the board's primary role is to hear evidence and argument and to reach a decision. Any board member, who, because of bias, interest, or other conflict is unable to participate in the hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. The board shall be assisted and advised at the hearing by its general counsel, who shall not participate in any other manner in the investigation or prosecution of charges. The general counsel shall also attend the board's deliberations, advise the board at such deliberations, and assist the board with development and drafting of its findings.

b. The disciplinary counsel who conducted the investigation represents the board and presents evidence that disciplinary action should be taken against the person. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, an affirmation may be substituted.

9. The board chair presides as chair of the board over all hearings for licensed marriage and family therapists. The customary order of proceedings at a hearing is as follows.

a. The disciplinary counsel makes an opening statement of what he/she intends to prove, and what action, he/she wants the board to take.

b. The person, or his/her attorney, makes an opening statement, explaining why he/she believes that the charges against him/her are not legally founded.

c. The disciplinary counsel presents the case against the person.

d. The person, or his/her attorney, cross-examines.

e. The person presents evidence.

f. The disciplinary counsel cross-examines.

g. The rebuts the person's evidence.

10. Both parties make closing statements. The disciplinary counsel makes the initial closing statement and any final statement.

11. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally, and become part of the record of the proceeding.

12.a. The record of the hearing shall include:

- i. all papers filed and served in the proceeding;
- b. all documents and/or other materials accepted as evidence at the hearing;
- ii. statements of matters officially noticed;
- c. notices required by the statutes or rules; including notice of hearing;
- d. affidavits of service or receipts for mailing or process or other evidence of service;
- e. stipulations, settlement agreements or consent orders, if any;
 - i. records of matters agreed upon at a prehearing conference;
 - ii. orders of the board and its final decision;
 - iii. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
 - iv. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.
- f. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

13.a. The decision of the board shall be reached according to the following process.

- i. Determine the facts at issue on the basis of the evidence submitted at the hearing.
- ii. Determine whether the facts in the case support the charges brought against the person.
- iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee.
- b. Deliberation
 - i. The board will deliberate in closed session.
 - ii. The advisory committee shall make its recommendation as to each charge presented.
 - iii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).
 - iv. After considering and voting on each charge, the hearing panel will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist or applicant for licensure.
 - v. The board by affirmative majority vote may vote to recommend that the board withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37, Chapter 13, or otherwise discipline a licensed marriage and family therapist or applicant. The board, upon reaching a decision, will inform the board of their decision.
- c. Sanctions against the person who is party to the proceedings are based upon findings of fact and conclusions

of law determined as a result of the hearing. The party is notified by certified mail of the final decision of the board.

14. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it and the advisory committee deem proper if such orders and judgments are not consent orders or compromise judgments.

15.a. The board may reconsider a matter that it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the board reconsider the decision.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following.

- i. The board's decision is clearly contrary to the law and evidence.
- ii. There is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing.
- iii. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly.
- iv. It would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3911. Consent Order

A. The Board may issue an order involving some type of disciplinary action with the consent of the person. A consent order requires a simple majority of the board. This consent order is not the result of the board's deliberation, but rather the board's acceptance upon recommendation of disciplinary committee to the board of an agreement reached between the board's agents and the person. The board issues the consent order to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1106, 1116-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28

§3913. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3915. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified, restricted delivery mail.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action by the board that could eventually lead to the withholding, denial, revocation or suspension of his/her license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3917. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the 19th Judicial District Court for the parish of East Baton Rouge, provided that such petition for judicial review is filed within thirty days after receipt of the notice of the decision of the board. If judicial review is granted, the board's decision remains enforceable in the interim unless the 19th Judicial District Court orders a stay. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3919. Further Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3921. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed marriage and family therapist for a period not exceeding two years. At the end of this period, the Board shall re-evaluate the suspension and may reinstate or revoke the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3923. Declaratory Statements

A. The board upon recommendation of the advisory committee may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the rules, regulations, and ethical standards promulgated by the board for the advisory committee.

1. A request for declaratory statement is made in the form of a petition to the Licensed Marriage and Family Therapists Advisory Committee. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or ethical standards by its potential application to him in which he is uncertain of its effect.

2. The advisory committee shall consider the petition within a reasonable period of time, taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§3925. Injunction

A. The board upon recommendation of the LMFT Advisory Committee may, through the Louisiana attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by R.S. 37, Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by R.S. 37, Chapter 13, the court, may enter a decree enjoining the defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, a court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all other penalties and other remedies provided in R.S. 37, Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 41. Informed Consent

§4101. General Provisions

A. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures before the formal therapeutic process begins. Information provided to clients by licensed marriage and family therapists about the treatment process shall include, but is not limited to, the therapist's statement of practice as

outlined in the Appendix. The therapist should be sure that the client understands all information provided before asking for consent to treatment. The content of informed consent may vary depending on the client and treatment plan; however, informed consent generally necessitates that the client:

1. has the capacity to consent;
2. has been adequately informed of the ethical and practical components of treatment processes and procedures, including but not limited to, the use of audio or video taping, or the use of observers, supervisors, or therapy teams during therapy;
3. has been adequately informed of potential therapy outcomes, including the risks and benefits of treatment, not only for recognized approaches, but also for approaches for which generally recognized standards do not yet exist;
4. has freely and without undue influence expressed consent; and
5. has provided consent that is appropriately documented.

B. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 43. Privileged Communications

§4301 Privileged Communication with Clients

A. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality in the therapeutic process and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures. Licensed marriage and family therapists also shall be aware of specific ethical requirements concerning licensed marriage and family therapy as specified in the Code of Ethics (Chapter 47) and in §4301.C.

B. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, court order, or where mandated or specifically permitted by law, or reasonably necessary to protect the client or other parties from a clear and imminent threat of serious physical harm. Verbal authorization may be sufficient in emergency situations or where otherwise permitted by law.

C. Licensed marriage and family therapists shall be cognizant of and adhere to any confidentiality requirement that may differ from requirements in other licenses they hold. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client within the system of which they are working as well as the confidences of the system.

1. When providing couple, family, or group treatment, a licensed marriage and family therapist shall not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver.

2. In the context of couple, family, or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 45. Exemptions

§4501. Exemptions

A. No person shall be required to obtain a license as a licensed marriage and family therapist. The practice of marriage and family therapy is not prohibited by Act 1195. As stated in R.S. 37:1122.A, the only prohibition is the use of the title "licensed marriage and family therapist."

B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use the title "licensed marriage and family therapist." (R.S. 37:1121)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Chapter 47. Code of Ethics

§4701. General

A. The Marriage and Family Therapy Advisory Committee strives to honor the public trust in licensed marriage and family therapists by setting the standards for ethical practice as described in this code of ethics.

B. Licensed marriage and family therapists have an obligation to be familiar with this code of ethics and its application to their professional services. They also must be familiar with any applicable ethical codes that govern other licensure that they hold or are responsible for through certification or membership in professional organizations. Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical conduct.

C. These ethical standards govern the practice of licensed marriage and family therapy and professional functioning of the advisory committee and shall be enforced by the board through the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4703. Resolving Ethical Issues

A. The absence of an explicit reference to a specific behavior or situation in the Code does not mean that the behavior is ethical or unethical. The standards are not exhaustive. Licensed marriage and family therapists shall consult with other licensed marriage and family therapists who are knowledgeable about ethics, with colleagues, with LMFT-approved supervisors, or with appropriate authorities when:

1. they are uncertain if the ethics of a particular situation or course of action is in violation of this code; or
2. provisions in the ethical codes that regulate licensure that they may hold in other professions differs from provisions in this code; or
3. provisions in the ethical codes that regulate their membership or certification in a professional organization differs from provisions in this code.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4705. Responsibility to Clients

A. Licensed marriage and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

B. Licensed marriage and family therapists provide professional assistance to persons without discrimination on the basis of race, age, ethnicity, socioeconomic status, disability, gender, health status, religion, national origin, or sexual orientation.

C. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures early in the therapeutic relationship, usually before the therapeutic relationship begins, and use language that is reasonably understandable to clients. The licensed marriage and family therapist will provide all clients with a statement of practice subject to review and approval by the advisory committee (See Appendix). The content of informed consent may vary depending upon the therapist's areas of expertise, the client(s) and treatment plan.

1. Informed consent generally necessitates that the client:

- a. has the capacity to consent;
- b. has been adequately informed of significant information concerning treatment processes and procedures;
 - i. has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist;
- c. has freely and without undue influence signed a statement of practice.

2. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

D. Licensed marriage and family therapists are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid conditions and multiple relationships with clients that could impair

professional judgment or increase the risk of exploitation. Such relationships include, but are not limited to, business or close personal relationships with a client or the client's immediate family. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

E. Sexual intimacy with clients is prohibited.

F. Sexual intimacy with former clients is likely to be harmful and is therefore prohibited for two years following the termination of therapy or last professional contact. In an effort to avoid exploiting the trust and dependency of clients, licensed marriage and family therapists should not engage in sexual intimacy with former clients after the two years following termination or last professional contact. Should therapists engage in sexual intimacy with former clients following two years after termination or last professional contact, the burden shifts to the therapist to demonstrate that there has been no exploitation or injury to the former client or to the client's immediate family.

G. Licensed marriage and family therapists comply with applicable laws regarding the reporting of alleged unethical conduct.

H. Licensed marriage and family therapists do not use their professional relationships with clients to further their own interests.

I. Licensed marriage and family therapists respect the rights of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise the clients that they have the responsibility to make decisions regarding relationships such as cohabitation, marriage, divorce, separation, reconciliation, custody, and visitation.

J. Licensed marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

K. Licensed marriage and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

L. Licensed marriage and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

M. Licensed marriage and family therapists obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation.

N. Licensed marriage and family therapists, upon agreeing to provide services to a person or entity at the request of a third party, clarify, to the extent feasible and at the outset of the service, the nature of the relationship with each party and the limits of confidentiality.

AUTHORITY NOTE: In accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated in accordance with the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4707. Confidentiality

A. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client.

B. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality and

possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

C. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, or where mandated or permitted by law. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law, specifically in instances of danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect. When providing couple, family or group treatment, the therapist does not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver. In the context of couple, family or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

D. Licensed marriage and family therapists use client and/or clinical materials in teaching, writing, consulting, research, and public presentations only if a written waiver has been obtained in accordance with this section, or when appropriate steps have been taken to protect client identity and confidentiality.

E. Licensed marriage and family therapists store, safeguard, and dispose of client records in ways that maintain confidentiality and in accord with applicable laws and professional standards.

F. Subsequent to the therapist moving from the area, closing the practice, or upon the death of the therapist, a marriage and family therapist arranges for the storage, transfer, or disposal of client records in ways that maintain confidentiality and safeguard the welfare of clients.

G. Licensed marriage and family therapists, when consulting with colleagues or referral sources, do not share confidential information that could reasonably lead to the identification of a client, research participant, supervisee, or other person with whom they have a confidential relationship unless they have obtained the prior written consent obtained in accordance with this section of the client, research participant, supervisee, or other person with whom they have a confidential relationship. Information may be shared only to the extent necessary to achieve the purposes of the consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4709. Professional Competence and Integrity

A. Licensed marriage and family therapists maintain high standards of professional competence and integrity.

B. Licensed marriage and family therapists pursue knowledge of new developments and maintain competence in licensed marriage and family therapy through education, training, or supervised experience.

C. Licensed marriage and family therapists maintain adequate knowledge of and adhere to applicable laws, ethics, and professional standards.

D. Licensed marriage and family therapists seek appropriate professional assistance for their personal problems

or conflicts that may impair work performance or clinical judgment.

E. Licensed marriage and family therapists do not provide services that create a conflict of interest that may impair work performance or clinical judgment.

F. Licensed marriage and family therapists, as presenters, teachers, supervisors, consultants and researchers, are dedicated to high standards of scholarship, present accurate information, and disclose potential conflicts of interest.

G. Licensed marriage and family therapists maintain accurate and adequate clinical and financial records.

H. While developing new skills in specialty areas, licensed marriage and family therapists take steps to ensure the competence of their work and to protect clients from possible harm. Licensed marriage and family therapists practice in specialty areas new to them only after appropriate education, training, or supervised experience.

I. Licensed marriage and family therapists do not engage in sexual or other forms of harassment of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

J. Licensed marriage and family therapists do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

K. Licensed marriage and family therapists do not give to or receive from clients:

1. gifts of substantial value; or
2. gifts that impair the integrity or efficacy of the therapeutic relationship.

L. Licensed marriage and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies.

M. Licensed marriage and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

N. Licensed marriage and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

O. To avoid a conflict of interests, licensed marriage and family therapists who treat minors or adults involved in custody or visitation actions may not also perform forensic evaluations for custody, residence, or visitation of the minor. The marriage and family therapist who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the marriage and family therapist's perspective as a treating marriage and family therapist, so long as the marriage and family therapist does not violate confidentiality.

P. Licensed marriage and family therapists are in violation of this Code and subject to revocation or suspension of licensure or other appropriate action by the board through the advisory committee if they:

1. are convicted of any felony;
2. are convicted of a misdemeanor related to their qualifications or functions;
3. engage in conduct which could lead to conviction of a felony, or a misdemeanor related to their qualifications or functions;

4. are expelled from or disciplined by professional organizations;

5. have their licenses or certificates suspended or revoked or are otherwise disciplined by other regulatory bodies;

6. continue to practice licensed marriage and family therapy while no longer competent to do so because they are impaired by physical or mental causes or the abuse of alcohol or other substances; or

7. fail to cooperate with the board through the advisory committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4711. Responsibility to Students and Supervisees

A. Licensed marriage and family therapists do not exploit the trust and dependency of students and supervisees.

B. Licensed marriage and family therapists are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Licensed marriage and family therapists, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, licensed marriage and family therapists take appropriate precautions.

C. Licensed marriage and family therapists do not provide therapy to current students or supervisees.

D. Licensed marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. Should a supervisor engage in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

E. Licensed marriage and family therapists do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

F. Licensed marriage and family therapists take reasonable measures to ensure that services provided by supervisees are professional.

G. Licensed marriage and family therapists avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the therapist's objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the therapist has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

H. Licensed marriage and family therapists do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal

authorization will not be sufficient except in emergency situations, unless prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4713. Responsibility to Research Participants

A. Investigators respect the dignity and protect the welfare of research participants, and are aware of applicable laws and regulations and professional standards governing the conduct of research.

B. Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly involved in the investigation and observe safeguards to protect the rights of research participants.

C. Investigators requesting participant involvement in research inform participants of the aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, or have impairments which limit understanding and/or communication, or when participants are children.

D. Investigators respect each participant's freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Licensed marriage and family therapists, therefore, make every effort to avoid multiple relationships with research participants that could impair professional judgment or increase the risk of exploitation.

E. Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4715. Responsibility to the Profession

A. Licensed marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

B. Licensed marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations. If the mandates of an organization with which a licensed marriage and family therapist is affiliated, through employment, contract or otherwise, conflict with the LMFT Code of ethics licensed marriage and family therapists make known to the organization their commitment to the LMFT Code of ethics and attempt to resolve the conflict in a way that allows the fullest adherence to the Code of ethics.

C. Licensed marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

D. Licensed marriage and family therapists do not accept or require authorship credit for a publication based on research from a student's program, unless the therapist made a substantial contribution beyond being a faculty advisor or research committee member. Coauthorship on a student thesis, dissertation, or project should be determined in accordance with principles of fairness and justice.

E. Licensed marriage and family therapists who are the authors of books or other materials that are published or distributed do not plagiarize or fail to cite persons to who credit for original ideas or work is due.

F. Licensed marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

G. Licensed marriage and family therapists participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

H. Licensed marriage and family therapists are concerned with developing laws and regulations pertaining to licensed marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

I. Licensed marriage and family therapists encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 28:

§4717. Financial Arrangements

A. Licensed marriage and family therapists make financial arrangements with clients, third-party payors, and supervisees that are reasonably understandable and conform to accepted professional practices.

B. Licensed marriage and family therapists do not offer or accept kickbacks, rebates, bonuses, or other remuneration for referrals; fee-for-service arrangements are not prohibited.

C. Prior to entering into the therapeutic or supervisory relationship, licensed marriage and family therapists clearly disclose and explain to clients and supervisees:

1. all financial arrangements and fees related to professional services, including charges for canceled or missed appointments;

2. the use of collection agencies or legal measures for nonpayment; and

3. the procedure for obtaining payment from the client, to the extent allowed by law, if payment is denied by the third-party payor.

4. Once services have begun, therapists provide reasonable notice of any changes in fees or other charges.

D. Licensed marriage and family therapists give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When such action is taken, therapists will not disclose clinical information.

E. Licensed marriage and family therapists represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

F. Licensed marriage and family therapists ordinarily refrain from accepting goods and services from clients in return for services rendered. Bartering for professional services may be conducted only if:

1. the supervisee or client requests it;
2. the relationship is not exploitative;
3. the professional relationship is not distorted; and
4. a clear written contract is established.

G. Licensed marriage and family therapists may not withhold records under their immediate control that are requested and needed for a client's treatment solely because payment has not been received for past services, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

§4719. Advertising

A. Licensed marriage and family therapists engage in appropriate informational activities, including those that enable the public, referral sources, or others to choose professional services on an informed basis.

B. Licensed marriage and family therapists accurately represent their competencies, education, training, and experience relevant to their practice of licensed marriage and family therapy.

C. Licensed marriage and family therapists ensure that advertisements and publications in any media (such as directories, announcements, business cards, newspapers, radio, television, Internet, and facsimiles) convey information that is necessary for the public to make an appropriate selection of professional services. Information could include:

1. office information, such as name, address, telephone number, credit card acceptability, fees, languages spoken, and office hours;

2. qualifying clinical degree (see §10(F));

3. other earned degrees (see §10[F]) and state or provincial licensures and/or certifications;

4. licensed marriage and family therapist status; and

5. description of practice.

D. Licensed marriage and family therapists do not use names that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.

E. Licensed marriage and family therapists do not use any professional identification (such as a business card, office sign, letterhead, Internet, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

F. In representing their educational qualifications, licensed marriage and family therapists list and claim as evidence only those earned degrees:

1. from institutions accredited by regional accreditation sources recognized by the United States Department of Education,

2. from institutions recognized by states or provinces that license or certify licensed marriage and family therapists, or

3. from equivalent foreign institutions.

G Licensed marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

H. Licensed marriage and family therapists make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.

I. Licensed marriage and family therapists do not represent themselves as providing specialized services unless they have the appropriate education, training, or supervised experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 28:

§4720. AppendixC Statement of Practice for Licensed Marriage and Family Therapists

A. Each licensed marriage and family therapist/MFT intern in Louisiana shall write statement of practice incorporating the following information to provide to all clients. LMFT's also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory committee. Sample statements of practice are available from the board office.

1. Your name, mailing address, and telephone number.

2. Qualifications:

a. degrees earned and institution(s) attended;

b. your LMFT licensure number, noting that the Board of Examiners is the grantor of your license. Include the address and telephone number of the board;

c. other licensure numbers, including the name, address, and telephone number of the grantor;

d. An MFT intern must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.

3. Specify the type(s) of clients you serve.

4. Specialty Areas

a. List your specialty areas such as family of origin, parenting, stepfamilies, adolescents, marriage, etc.

b. List your national certifications.

5. What Clients can Expect from Therapy

a. Briefly describe the theoretical orientation and the type of techniques and/or strategies that you use in therapy.

b. Briefly describe your philosophical view of therapy, including clients' input for treatment plans.

c. Briefly describe your general goals and objectives for clients.

6. Note Any Expectations that You Have for Clients

a. For example, clients:

i. must make their own decisions regarding such things as deciding to marry, divorce, separate, reconcile, and how to set up custody and visitation; that is, you may help them understand the consequences of these decisions, but your code of ethics does not allow you to advise a specific decision.

ii. must notify you before beginning therapy of any other ongoing professional mental health relationship or other professional relationship that might impact the therapy

iii. must inform you during the therapy before being seeing another mental health professional or professional in another discipline that might impact the therapy.

iv. are expected to follow through on homework assignments;

v. are expected to inform you on their intake form and during therapy of their general physical health, any medical treatments that may impact their therapy and any medications that they are taking.

7. Code of Ethics

a. State that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed Marriage and Family Therapists; and

b. that a copy is available on request;

c. you might want to specifically note some of the provisions in the Code of Ethics that you would like clients to be aware of.

8. Describe the rules governing privileged communication for Licensed Marriage and Family Therapists:

a. Include instances where confidentiality may be waived. This includes, but is not limited to danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect.

b. Include the information that when providing couple, family or group treatment, a licensed marriage and family therapist cannot:

i. disclose any information outside the treatment context without a written authorization from each individual competent to execute a waiver; and

ii. may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

c. If you audio- or video-tape sessions, include information specific to their use.

d. See Chapter 39 and the Code of Ethics in the Appendix for rules on privileged communication

9. State your policy for emergency client situations.

10. Fees, Office Procedures, Insurance Policies

a. List your fees and describe your billing policies;

b. State your policy on insurance payments.

c. Describe your policy on payments, scheduling and breaking appointments, etc.

11. Adequately inform clients of potential risks and benefits of therapy. For example:

a. clients may realize that they have additional issues that they were not aware of before the therapy as a result of the therapy;

b. making changes through therapy may bring about unforeseen changes in a person's life;

c. individual issues may surface for each spouse as clients work on a marital relationship;

d. making changes in communication and/or ways of interacting with others may produce adverse responses from others;

e. marital or family conflicts may intensify as feelings are expressed;

f. individuals in marital or family therapy may find that spouses or family members are not willing to change.

12. Briefly add any additional information that you believe is important for your clients to be informed about your qualifications and the therapy that you provide.

13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s)' signatures, and your signature. MFT Interns need to have a line for their LMFT-approved supervisor's signature.

B. Provide clients with a copy or copies of the signed statement of practice.

C. A Licensed Marriage and Family Therapist/MFT Intern must have a copy of his/her statement of practice on file in the board office. An MFT Intern must include a copy of his/her statement of practice with his/her Registration of Supervision. The Code of Ethics can be duplicated for clients and additional copies are available at www.lpcboard.org or from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 28:

Interested parties may submit written comments to Gary S. Grand, Board Chair, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA, 70809. Written comments will be accepted through October 10, 2002. A public hearing will be held on October 29, 2002, 5 p.m., Central State Hospital, West Shamrock, Building 14, Room 127, Pineville, LA.

Gary S. Grand
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure of Licensed Professional Counselors and Licensed Marriage and Family Therapists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time implementation cost of \$3,875 that includes the cost of promulgating the rules (\$2,000), legal fees (\$425), postage (\$510), forms (\$40), licenses (\$500) and staff time (\$400). Additional expenses associated with the reimbursement of board and advisory committee members for travel, incidental, and clerical expenses incurred while engaged in official board activities are estimated to be \$9,000 for FY 02-03; \$13,000 for FY 03-04; and \$13,000 for FY 04-05. The cost will be absorbed within the budget of the Licensed Professional Counselors (LPC) Board. There will be no impact to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Additional revenues from initial licensure (approximately 250 individuals) and renewals every 2 years to be collected by the board are forecasted to be \$55,000 in FY 02-03; \$5,000 in FY 03-04; and \$42,500 in FY 04/05. There will be no impact to other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Additional cost for LPCs and Licensed Marriage and Family Therapists (LMFTs) should be as follows: \$200 for Applicant fees; \$100 for Registration for Supervision fee; \$150 for Renewal of License fee; \$50 for Late Fees; \$50 for Name Change/Duplicate License fee; and \$25 for Copy of File fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will generate a new licensed professional category, thus, increasing the opportunity for employment for those who qualify. Individuals wishing to be licensed through the "grandfathering" process will realize an economic advantage by not having to comply with more stringent licensing qualifications.

Lin Falcon
Administrative Assistant
0209#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services Waivers Provider Enrollment Requirement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt the following proposed Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by Medicaid to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as Home and Community Based Services Waiver Programs.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services currently administers five Home and Community Based Services Waiver Programs: the Elderly and Disabled Adult Waiver, the Mentally Retarded/Developmental Disabilities (MD/DD) Waiver, the Children's Choice Waiver, the Personal Care Attendant Waiver, and the Adult Day Health Care Waiver.

Participation by service providers in these programs is voluntary. Knowledge of the waiver populations as well as the supports and services available in the community and from the Bureau of Community Supports and Services is considered crucial for the effective delivery of services by these providers. Act 13 of the 2002 Regular Session of the Louisiana Legislature authorizes the Department of Health and Hospitals to suspend the enrollment of new private MR/DD waiver service providers until such time as it has completed drafting the minimum qualifications and standards of performance expected of such providers. In

order to increase provider knowledge of available supports and services and ensure the quality of services rendered, the department adopted an Emergency Rule requiring attendance at the BCSS provider enrollment orientation sessions prior to enrollment as a Medicaid provider of services for certain designated waivers (*Louisiana Register*, Volume 28, Number 8). The department now proposes to adopt a Rule to continue the provisions of the August 4, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this Rule will have a positive impact on family functioning as described in R.S. 49:972, since it will enhance provider knowledge and service quality

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following provisions governing participation as a Medicaid provider in designated Home and Community Based Services Waivers.

Attendance at a provider enrollment orientation shall be required prior to enrollment as a Medicaid provider of services under the following waivers:

1. the Elderly and Disabled Adult Waiver;
2. the Mental Retardation/Developmental Disabilities Waiver; and
3. the Children's Choice Waiver.

The frequency of the provider enrollment orientations shall be determined by the Bureau of Community Supports and Services, but they shall be conducted at least semi-annually.

Interested persons may submit written comments to Barbara Dodge at the Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waivers C Provider Enrollment Requirement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no estimated costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$216 (\$108 SGF and \$108 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no effect on federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The implementation of this proposed Rule may have an economic cost to prospective waiver services providers as it will require attendance at a provider orientation (approximately a 6.5-hour course) prior to enrollment as a Medicaid provider. However, there should be a positive effect for the families as waiver providers will be better trained and informed about waiver supports and services prior to enrolling in Medicaid.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0209#085

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Mentally Retarded/Developmentally Disabled Waiver Supervised Independent Living

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Community Supports and Services provides reimbursement for Supervised Independent Living (SIL) services under the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver. SIL services include comprehensive plan of care development, implementation and monitoring; training; consultation and companion services. An Emergency Rule was adopted in July of 1995 to revise the reimbursement methodology for SIL services (*Louisiana Register*, Volume 21, Number 7), and it was subsequently repealed in October of 1995 (*Louisiana Register*, Volume 21, Number 10). As a result of allocation of additional funds by the legislature during the 2001 Regular Session, a rule was adopted to increase the reimbursement rates for SIL day and night companion services (*Louisiana Register*, Volume 27, Number 11).

During the 2002 Regular Session, the legislature again allocated additional funds for SIL services. In compliance with Act 13 of the 2002 Regular Session, the Bureau of Community Supports and Services adopted an Emergency Rule to increase the reimbursement rate for a certain designated procedure code for SIL services (*Louisiana Register*, Volume 28, Number 8). The department now proposes to adopt a Rule to continue the provisions of the July 18, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services increases the Supervised Independent Living per diem rate as follows:

Procedure Code	Name	Current Rate	New Rate
Z0006	SIL Per Diem	\$22.76	\$34.98

Interested persons may submit written comments to Barbara Dodge at the following address: Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mentally Retarded/Developmentally Disabled WaiverC Supervised Independent Living**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$1,455,263 for SFY 2002-03, \$1,574,961 for SFY 2003-04, and \$1,622,209 for SFY 2004-05. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$3,569,699 for SFY 2002-03, \$3,863,439 for SFY 2003-04, and \$3,979,343 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will increase expenditures (approximately 54 percent in the per diem rate) to providers of Supervised Independent Living services by approximately \$5,024,800 for SFY 2002-03, \$5,438,400 for SFY 2003-04, and \$5,601,552 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule that increases reimbursement rates by 54 percent could increase provider participation and/or competition for clients in the Supervised Independent Living Program.

Ben A. Bearden
Director
0209#086

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Emergency Medical Transportation Program
Emergency Ambulance Services
Reimbursement Increase**

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 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the legislature during the 2001 Regular Session, the bureau increased the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent (*Louisiana Register*, Volume 27, Number 11).

As a result of the allocation of additional funds by the legislature during the 2002 Regular Session, the bureau adopted an Emergency Rule to increase the reimbursement for certain designated procedure codes for emergency ambulance transportation services by either 5 percent or 6 percent (*Louisiana Register*, Volume 28, Number 7). The bureau now proposes to adopt a Rule to continue the provisions contained in the July 6, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 43:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedure codes for emergency ambulance transportation services by 5 percent.

A0427	ALS-Emergency
A0433	ALS2
A0434	Speciality care transport

Reimbursement for the following designated procedure code for emergency ambulance transportation services will be increased by 6 percent.

A0425	Ground mileage
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Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Medical Transportation
Program C Emergency Ambulance
Services C Reimbursement Increase**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$447,413 for SFY 2002-03, \$468,562 for SFY 2003-04, and \$482,618 for SFY 2004-05. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$1,097,404 for SFY 2002-03, \$1,149,399 for SFY 2003-04, and \$1,183,881 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will result in an increase in reimbursement (5 percent to 6 percent) for certain designated procedure codes to providers of emergency ambulance transportation. Implementation of this proposed Rule will increase payments to providers of emergency ambulance transportation services by approximately \$1,544,655 for SFY 2002-03, \$1,617,961 for SFY 2003-04, and \$1,666,499 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0209#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Medicaid Eligibility
Family Practice Examination**

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 as authorized by R.S. 34:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is the single state agency responsible for the administration of the Medicaid Program, including the determination of eligibility. Eligibility for the Medicaid Program is limited to certain groups of individuals as authorized by Congress. Specific requirements must be met in order to qualify as a member of these groups. Categorical eligibility for members of certain groups is based on a medical determination of a physical or mental defect, illness, or impairment meeting established criteria. Medical documentation obtained from licensed physicians, clinics, hospitals, and other sources is reviewed in making this eligibility determination. If documentation is not available for the medical eligibility determination, the bureau may assist the applicant by providing reimbursement to an enrolled Medicaid provider for a medical examination. The bureau has determined that it is necessary to increase the reimbursement for family practice examinations in order to ensure continued access to medical examinations for those applicants who do not have medical documentation.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 as it will assist applicants who have no other means to obtain the medical documentation necessary for the determination of Medicaid eligibility.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fee for the family practice examination to \$100. The family practice examination consists of a medical examination and a written report describing the Medicaid applicant's medical condition. Reimbursement is only available to Medicaid enrolled physicians, clinics, and

hospitals. Providers shall be notified of future changes to the reimbursement fee for the family practice examination by means of a Potpourri published in the *Louisiana Register*.

Interested persons may submit written comments to Ben A. Bearden at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medicaid EligibilityC Family Practice
Examination**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will increase state program costs by approximately \$226 for SFY 2002-2003 and \$290 for SFYs 2003-2004 and 2004-2005. Requests for medical examinations are rare and none were performed in SFY 2001-2002. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will increase federal revenue collections by approximately \$436 for SFY 2002-2003, and \$710 for SFYs 2003-2004 and 2004-2005.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is anticipated that the implementation of this proposed Rule will have an economic benefit to directly affected persons as they will not have to incur the expense of obtaining the medical documentation necessary for the eligibility determination process. Implementation of this proposed Rule will increase expenditures to providers of family practice examinations (less than 10 per year) by approximately \$500 in SFY 2002-2003, and \$1000 in SFYs 2003-2004 and 2004-2005.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0209#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities
Reimbursement Methodology
Minimum Data Set Verification
(LAC 50:VII.1301, 1303, 1313 and 1315)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:VII.1301 and 1303 and to adopt new provisions under the Medical Assistance Program as authorized by R.S. 46:2742 and R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule establishing a system of prospective payment for nursing facilities based on recipient care needs that incorporated acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register*, Volume 28, Number 6). This system established a facility specific price for the Medicaid nursing facility residents served. It also provided for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care. The bureau has determined that it is necessary to amend the June 20, 2002 Rule by incorporating new definitions and revising current definitions in §1301 as well as revising the provisions governing the submission of cost reports in §1303. In addition, the bureau proposes to adopt provisions governing verification of minimum data set (MDS) assessments and the appeal process for dispute of MDS review findings.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1301. Definitions

Calendar Quarter^{Ca} a three-month period beginning January 1, April 1, July 1, or October 1.

Case Mix Index^{Ca} a numerical value that describes the resident's relative resource use within the groups under the Resource Utilization Group (RUG-III) classification system

prescribed by the department based on the resident's MDS assessment. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Delinquent MDS Resident Assessment Can MDS assessment that is more than 121 days old, as measured by the R2b date field on the MDS.

Minimum Data Set (MDS) A core set of screening and assessment data, including common definitions and coding categories, that form the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in the Medicaid program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the MDS 2.0 or subsequent revisions as approved by the Center for Medicare and Medicaid Services.

MDS Supportive Documentation Guidelines The department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III classification system. These guidelines shall be maintained by the department and updated and published as necessary.

On-Site MDS Review A systematic official verification, including the final written report of the examination of original medical record documentation supporting resident assessment data.

Point-in-Time A report that reflects the residents in the facility on the last day of the previous calendar quarter.

RUG-III Resident Classification System The resource utilization group used to classify residents. When a resident classifies into more than 1 RUG-III group, the RUG-III group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Unsupported MDS Resident Assessment Can assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III classification would result in order for the MDS assessment to be considered "unsupported."

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:

§1303. Cost Reports

A.1. - 4. ...

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program and using the definition of allowable and non allowable cost contained in the Medicare/Medicaid provider reimbursement manual, with the following exceptions.

1. Cost reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end.

2. There shall be no automatic extension of the due date for the filing of cost reports. If a provider experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the Medicaid Program prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the facility's control. An extension will not be granted when the provider agreement is terminated or a change in ownership occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:

§1313. Verification of Minimum Data Set Assessments

A. The department or its contractor shall provide each nursing facility with a point-in-time preliminary case mix index (CMI) report by approximately the fifteenth day of the second month following the beginning of a calendar quarter. This preliminary CMI report will serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility to correct and transmit any missing MDS assessments or tracking records or apply the CMS correction policy where applicable. The department or its contractor shall provide each nursing facility with a final CMI report utilizing MDS assessments after allowing the facilities a reasonable amount of time to process their corrections (approximately two weeks).

1. If the department or its contractor determines that a nursing facility has delinquent MDS resident assessments, for purposes of determining both average CMIs, such assessments shall be assigned the case mix index associated with the RUG-III group "BC1-Delinquent." A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG-III classification system.

B. The department or its contractor shall periodically review the MDS supporting documentation maintained by nursing facilities for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify facilities of the MDS reviews not less than two business days prior to the start of the MDS review date and a fax, electronic mail or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying documentation that will be required to be available at the start of the on-site MDS review.

1. The department or its contractor shall review a sample of MDS resident assessments equal to the greater of 20 percent of the occupied bed size of the facility or 10 assessments and shall include those transmitted assessments posted on the most current point-in-time report. The MDS review will determine the percentage of assessments in the sample that are unsupported MDS resident assessments. The department may review additional or alternative MDS assessments, if it is deemed necessary.

2. When conducting the MDS reviews, the department or its contractor shall consider all MDS supporting documentation that is provided by the nursing facility and is available to the RN reviewers prior to the exit conference. MDS supporting documentation that is provided by the

nursing facility after the exit conference shall not be considered for the MDS review.

3. Upon request by the department or its contractor, the nursing facility shall be required to produce a computer-generated copy of the transmitted MDS assessment which shall be the basis for the MDS review.

4. After the close of the MDS review, the department or its contractor will submit an MDS review findings report to the facility within 10 business days following the exit conference.

5. The following corrective action will apply to those facilities with unsupported MDS resident assessments identified during an on-site review.

a. If the percentage of unsupported assessments in the initial on-site review sample is greater than 25 percent, the sample shall be expanded to include another 20 percent of remaining resident assessments.

b. If the percentage of unsupported assessments in the total sample is equal to or less than the threshold percentage as shown in column (B) of the table in Subparagraph d below, no corrective action will be applied.

c. If the percentage of unsupported assessments in the total sample is greater than the threshold percentage as shown in column (B) of the table in Subparagraph d below, the RUG-III classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the review process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the point-in-time roster was used to determine the Medicaid rate. A follow-up review process described in Subparagraphs d and e may be utilized at the discretion of the department.

d. Those providers exceeding the thresholds [see column (B) of the table in Subparagraph e] during the initial on-site review will be given 90 days to correct their assessing and documentation processes. A follow-up MDS review may be performed at the discretion of the Department at least 30 days after the facility's 90-day correction period. The department shall notify the facility not less than two business days prior to the start of the MDS review date. A FAX, electronic mail, or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying documentation that must be available at the start of the on-site MDS review.

e. After the follow-up MDS review, if the percentage of unsupported assessments in the total sample is greater than the threshold percentage as shown in column (B) of the following table, the RUG-III classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the review process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the point-in-time roster was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in Column (B) of the table below may be required to enter into an MDS Documentation Improvement Plan with the department of Health and Hospitals. Additional follow-up MDS reviews may be conducted at the discretion of the department.

Effective Date (A)	Threshold Percent (B)
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006	25%

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§1315. Appeal Process

A. If the facility disagrees with the review findings, a written request for an informal reconsideration must be submitted to the department or its contractor within 15 business days of the facility's receipt of the MDS review findings report. Otherwise, the results of the MDS review findings report are considered final and not subject to appeal. The department or its contractor will review the facility's informal reconsideration request within 10 business days and will send written notification of the final results of the reconsideration to the facility. No appeal of findings will be accepted until after communication of final results of the informal reconsideration process.

B. The provider has the right to request an appeal within 30 days of the written notice of the results of the informal reconsideration. Such request must be in writing to the Appeals Section. The request must contain a statement and be accompanied by supporting documents setting forth with particularity those asserted discrepancies which the provider contends are in compliance with the agency's regulations and the reasons for such contentions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

Implementation of the provisions of this Rule shall be contingent upon the approval of the State Plan amendment by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nursing Facilities C Reimbursement
Methodology C Minimum Data Set Verification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$10,786 for SFY 2002-03, \$21, 552 for SFY 2003-04, and \$22,198 for SFY 2004-05. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$10,786 for SFY 2002-03, \$21,552 for SFY 2003-04, and \$22,198 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being adopted to clarify and enhance the new reimbursement methodology. Implementation of this proposed Rule will result in an increase in expenditures for the administrative cost for implementation of this proposed Rule of approximately \$21,572 for SFY 2002-03, \$43,103 in 2003-04, and \$44,397 in SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0209#081

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medical Transportation Services
Non-Emergency Ambulance Services
Reimbursement Increase

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 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the legislature during the 2001 Regular Session, the bureau adopted a Rule to increase the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 27, Number 11).

During the 2002 Regular Session, the legislature again allocated additional funds for non-emergency ambulance transportation services. In compliance with Act 13 of the 2002 Regular Session, the bureau adopted an Emergency Rule increasing the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 28, Number 7). The bureau now proposes to adopt a Rule to continue the provisions of the July 1, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates:

A0426	ALS non-emergency transport	\$178.26
A0428	BLS non-emergency transport	\$178.26
Z5100	Transfer, loaded miles, BLS, 1st trip	\$178.26
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$178.26

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 29, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Medical Transportation Services C Non-Emergency Ambulance Services C Reimbursement Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$268,310 for SFY 2002-03, \$276,275 for SFY 2003-04, and \$284,564 for SFY 2004-05. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$658,056 for SFY 2002-03, \$677,715 for SFY 2003-04, and \$698,046 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will result in an increase in the reimbursement (16.7 percent) paid to providers of non-emergency ambulance transportation for certain designated procedure codes. Implementation of this proposed Rule will increase payments to providers of non-emergency transportation services by approximately \$926,204 for SFY 2002-03, \$953,990 for SFY 2003-04, and \$982,610 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0209#084

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 78C Policy Form Filing Requirements
(LAC 37:XIII.Chapters 59 and 101)**

Under the authority of Louisiana Revised Statutes Title 22, R.S. 49:950 et seq. and R.S. 22:620.A, the Department of Insurance is proposing to adopt the following Rule to establish reasonable requirements for *insurers* who seek to file insurance products in this state for approval. This Rule is necessary to provide for the uniform and practicable administration of the form filing, review and approval requirements of the Louisiana Insurance Code and to assist all *insurers* doing business in the State of Louisiana in complying with the form filing, review and approval requirements of the Louisiana Insurance Code.

Existing Chapter 59, Regulation 15C Rules, Rates, and Forms (By Lines) of the Department of Insurance is to be repealed in its entirety as of the effective date of this proposed regulation.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 59. Regulation 15C Rules, Rates, and Forms
(By Lines)**

§5901. Filing Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, October 1, 1958, repealed LR 28:

**Chapter 101. Regulation 78C Policy Form Filing
Requirements**

§10101. Purpose

A. The purpose of this regulation is:

1. to provide for the uniform and practicable administration of the form filing, review and approval requirements of the Louisiana Insurance Code;

2. to clarify the disparate provisions of R.S. 22:620.B;
3. to further protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and,

4. to assist all *insurers* doing business in the State of Louisiana in complying with the form filing, review and approval requirements of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10103. Authority

A. This regulation is adopted pursuant to RS 22:3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10105. Applicability and Scope; Severability

A. This regulation applies to all *insurers* doing business in the State of Louisiana subject to the form filing, review and approval provisions of the Louisiana Insurance Code.

B. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10107. Filing and Review of Health Insurance Policy

Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval Department approval, as a result of the department taking action, following *compliance review* of a complete filing, or a filing pursuant to Section 4 D hereof.

Association Can organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:215 A(1)(a)(iv), or R.S. 22:215 A(4)(a), or R.S. 22:250.1(5)(b), or R.S. 22:1734(4), whichever is applicable.

Basic Insurance Policy Form Can insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes certificates of coverage and any other evidence of coverage, subscriber agreements, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance Certification by an *insurer*, executed by an officer or authorized representative of the *insurer* on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance

with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for *certified approval*.

Certified Approval Expedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Compliance*, executed by an officer or authorized representative of the filing *insurer* on a form prescribed by the department. The department shall by *directive* determine those specific types of coverages and particular types of contracts for which the *certified approval* procedure is either required or available at the option of the *insurer*.

Complete Filing the filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract, any life or health and accident rider or endorsement forms, all items required under Subsection C hereof, "General Filing Requirements", and any other requirements as may be set forth in the applicable *Statement of Compliance*.

Compliance Audit a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval approval of a *complete filing* based upon notice, as provided herein, made to the department by the filing *insurer*, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department the Louisiana Department of Insurance, and includes the Commissioner of Insurance.

Endorsement a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in this Section, *insurer* shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing marketing either through independent or captive agents; telephone, e-mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Required Filing Fee the fee assessed per product or filing pursuant to state insurance law.

Rider an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance a form prescribed by the department, detailing the requirements specific to a particular form of coverage and contract type.

Trust a fund established by an employer, two or more employers in the same industry, a labor union, or an association, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:215 A.(1).

B. Filing Required

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, may be issued or delivered in this state unless and until it has been filed with and approved by the commissioner of insurance. This requirement also applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form, including rider and endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page.

2. A Health and Accident Transmittal Document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product. If the filing will include life insurance to be offered as an optional benefit under the base health insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate *Statement of Compliance* for said life insurance product.

C. General Filing Requirements

1. The department shall designate, by *directive*, those insurance products which must be filed pursuant to the requirements for *certified approval* as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the *insurer*, be filed either pursuant to said requirements for Certified Approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for Compliance Review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms".

2. Other than as specified in Subsection D hereof, "Exceptions", only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

- i. required filing fee, per insurance product, per insurance company;
- ii. completed Health and Accident Transmittal Document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. policy forms filed for approval, in duplicate;
- v. application form, in duplicate;
- vi. rider or endorsement forms, in duplicate;

vii. copies of any sample identification card intended for issue to covered persons, in duplicate;

viii. initial premium rates and classification of risks; and

ix. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of policy forms for one or more standardized Medicare Supplement insurance plans, or one or more standardized Medicare Select insurance plans, shall be considered a filing of one insurance product per *insurer*. Such filings must include, in final wording, the following items, in order:

i. required filing fee, per insurance product, per insurance company;

ii. required filing fee for premium rates, rating schedule and supporting documentation; and required filing fee for advertisements;

iii. completed Health and Accident Transmittal Document, as prescribed by the department;

iv. *Statement of Compliance* for said product;

v. policy forms filed for approval, in duplicate;

vi. outline of coverage, in duplicate;

vii. application form, in duplicate;

viii. replacement notice, in duplicate;

ix. rider or endorsement forms, in duplicate;

x. proposed plan of operation, as set forth in LAC 37:XIII.525.E for Medicare Select insurance plans, in duplicate;

xi. premium rates, rating schedule, and supporting documentation, in duplicate;

xii. any new related advertising as defined in Rule 3A, §4, in duplicate; and,

xiii. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of policy forms for Long Term Care insurance must include, in final wording, the following items, in order:

i. required filing fee, per insurance product, per insurance company;

ii. completed Health and Accident Transmittal document, as prescribed by the department;

iii. *Statement of Compliance* for said product;

iv. policy forms filed for approval, in duplicate;

v. outline of coverage, in duplicate;

vi. application form, in duplicate;

vii. replacement notice, in duplicate;

viii. rider or endorsement forms, in duplicate;

ix. premium rates and classification of risks;

x. personal worksheet, as per Regulation 46, Appendix B, in duplicate;

xi. disclosure, as per Regulation 46, Appendix C, in duplicate;

xii. suitability letter, as per Regulation 46, Appendix D, in duplicate;

xiii. any new related advertising as defined in Rule 3, 3.4, in duplicate; and

xiv. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

d. Filings of all group insurance products must include the group master contract, individual certificates or subscriber agreements or other statements of coverage, group application, individual enrollment forms, and any conversion insurance policy and application for conversion, if offered under the group master contract.

e. Filings of group health and accident products intended for issue to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issue to a trust are limited to trusts established by an employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, include the information described in Subparagraph C.2.e hereof.

g. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval not more than three years prior to the filing of said amendatory rider or endorsement. Such filings must include specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates and classification of risks are not required with such filings.

h. Filings of amendatory riders or endorsements, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted *affirmative approval* and are currently in force, but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates and classification of risks are not required with such filings. The transmittal document should advise that the previously approved or certified form is no longer being marketed.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form or enrollment form will henceforth be used, and the application form or enrollment form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings.

2. Identification cards. No filing fees will be required for these filings.

3. Medicare supplement advertising. Such filings must include statutory filing fees.

4. Long term care advertising. No filing fees will be required for these filings.

5. Medicare supplement rate filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans.

6. Exclusionary riders pursuant to R.S. 22:250.11.C; provided that the policy form filings and dates approved are identified for each previously approved product with which the rider form will henceforth be used. No filing fees will be required for these filings. The rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

7. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

8. Following approval of a complete filing of a Medicare Supplement insurance product, subsequent filings by the same *insurer* of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed.

9. Following approval of a complete filing of a Long Term Care insurance product, subsequent filings by the same *insurer* of other Long Term Care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made.

10. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by the department prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *insurer* may submit written notice to the department that the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration.

Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

7. The commissioner of insurance may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

F. Time Periods and Requirements for *Certified Approval* of Policy Form Filings

1. The department will make available *Statements of Compliance* setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as *Certification of Compliance* forms.

2. A policy form filing submitted for *certified approval* must include the following documents:

a. *Statement of Compliance* applicable to the form of coverage and contract type being submitted;

b. signed and dated *Certification of Compliance*;

c. all other items as set forth in Subsection 4C 2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming *certified approval* or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

5. No *insurer*, or officer, employee or representative of an *insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *insurer* may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing; must comply with all provisions of this Section for such a filing; and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the department on the previous filing.

3. For simplicity, it is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, *insurers* shall not fail to revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law.

2. A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. *Insurers* shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an *insurer*, if the department determines that any of the reasons for disapproval as stated in RS 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected *insurer*.

a. The affected *insurer* may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the *insurer* requesting the hearing. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected *insurer* must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which approval has been withdrawn; and

c. immediately review other products being marketed by the *insurer* to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected *insurer*. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the *insurer* desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

4. As of 30 days following receipt of the notice of withdrawal of approval by the department, an affected product shall not be marketed by the *insurer*, except in accordance with a corrective action plan approved by the department. The *insurer* has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected *insurer* and for good cause shown. In the event such an extension is granted, the date by which the *insurer* must cease marketing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the *insurer*.

J. Appeals; Hearings. Any *insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such *insurer* or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every *insurer* or other person filing policy forms, or related forms, for approval by the department shall maintain in their files the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market in accordance with Paragraph H.4 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the *insurer*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval department approval, as a result of the department taking action, following *compliance review* of a complete filing, or a filing pursuant to Subsection D hereof.

Association Can organization which has been formed for purposes other than procuring insurance for the members or employees.

Basic Insurance Policy Form Can insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance or annuity product. It includes certificates of coverage, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance Certification by an *insurer*, executed by an officer or authorized representative of the *insurer* on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for Certified Approval.

Certified Approval Expedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Compliance*, executed by an officer or authorized representative of the filing *insurer* on forms prescribed by the department. The department shall by *directive* determine those specific types of coverages and particular types of contracts for which the *certified approval* procedure is either required or available at the option of the *insurer*.

Complete Filing the filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract, any life or health and accident rider or endorsement forms, all items required under Subsection C hereof, "General Filing Requirements", and any other requirements as may be set forth in the applicable *Statement of Compliance*.

Compliance Audit Ca retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval approval of a complete filing based upon notice, as provided herein, made to the department by the filing *insurer*, following expiration of the specific time periods as provided herein, where *affirmative approval* has not been granted and the filing has not been disapproved by the department.

Department the Louisiana Department of Insurance, and includes the commissioner of insurance.

Endorsement Ca written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product Ca basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer every person engaged in the business of making contracts of insurance, as further defined in R.S.

22:5. As used in this Section, *insurer* shall also include fraternal benefit societies.

Method of Marketing—marketing either through independent or captive agents; telephone, email or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Required Filing Fee—the fee assessed per product or filing pursuant to state insurance law.

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

Trust—a fund established by an employer, two or more employers, a labor union, or an association, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others.

B. Filing Required

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, may be issued or delivered in this state unless and until it has been filed with and approved by the commissioner of insurance. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form, including rider and endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page.

2. A Life and Annuity Transmittal Document must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. If the filing will include health insurance to be offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, notwithstanding the provisions of Paragraph C.2 hereof, and include the appropriate *Statement of Compliance* for said health insurance product.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance or annuity products which must be filed pursuant to the requirements for *certified approval* as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance or annuity products which may, at the discretion of the *insurer*, be filed either pursuant to said requirements for *certified approval*, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance or annuity products not so designated shall be filed pursuant to the requirements for *compliance review* as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, "Exceptions," only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance or annuity product, all

items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of individual life insurance or annuity products must include, in final wording, the following items, in order:

- i. required filing fee, per insurance or annuity product, per company;
- ii. completed Life and Annuity Transmittal Document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. policy forms filed for approval, in duplicate;
- v. application form, in duplicate;
- vi. *rider* or endorsement forms, in duplicate;
- vii. actuarial memorandum describing the statutory reserves and nonforfeiture values that will be used for each plan of insurance, in duplicate;
- viii. life illustrations, if illustrated, in duplicate; and,
- ix. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Filings of all group life and annuity products must include, in final wording, the following:

- i. required filing fee, per insurance or annuity product, per insurance company;
- ii. completed Life and Annuity Transmittal Document, as prescribed by the department;
- iii. *Statement of Compliance* for said product;
- iv. group master contract, in duplicate;
- v. individual certificate, in duplicate;
- vi. group application, in duplicate;
- vii. *rider* or endorsement forms, in duplicate;
- viii. employee / member enrollment forms, in duplicate;
- ix. actuarial memorandum describing the statutory reserves and nonforfeiture values that will be used for each plan of insurance, in duplicate; and,
- x. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of group life and annuity products intended for issue to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a *trust* are limited to *trusts* established by an employer or association and must include the *trust* agreement, articles of incorporation or other instrument creating the *trust*, and member adoption agreement. If the *trust* was established by an association, include the information described in Subparagraph C.2.c hereof.

e. Filings of amendatory *riders* or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force, but are no longer being marketed, must include specimen copies of the previously approved forms, the dates previously approved, and the specific terms and provisions being amended, underlined in red or otherwise noted. The transmittal letter should advise

that the previously approved form is no longer being marketed.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms to be used with a particular insurance or annuity product, or with multiple insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used and, the application form is included with any subsequently filed basic insurance or annuity policy forms as needed to constitute a complete filing. No filings fees will be required for these filings.

2. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

3. *Riders* or endorsement forms affecting previously approved life insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the rider or endorsement form will henceforth be used. No filing fees will be required for these filings. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

4. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions" is received by the department.

2. If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the General Filing Requirements of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by the department prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *insurer* may submit written notice to the department that the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

7. The commissioner of insurance may send written notice prior to expiration of the initial 45-day period

extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available "Statements of Compliance" setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as *Certification of Compliance* forms.

2. A policy form filing submitted for *certified approval* must include the following documents.

a. *Statement of Compliance* applicable to the form of coverage and contract type being submitted.

b. Signed and dated *Certification of Compliance*.

c. All other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming *certified approval* or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date, or advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

5. No *insurer*, or officer, employee or representative of an *insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *insurer* may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the department on the previous filing.

3. For simplicity, it is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, *insurers* shall not fail to revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law.

2. A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. *Insurers* shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any *affirmative approval* of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an *insurer*, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected *insurer*.

a. The affected *insurer* may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the *insurer* requesting the hearing. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected *insurer* must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which approval has been withdrawn; and

c. immediately review other products being marketed by the *insurer* to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected *insurer*. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the *insurer* desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or *rider* forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

4. As of 30 days following receipt of the notice of withdrawal of approval by the department, an affected product shall not be marketed by the *insurer*, except in accordance with a corrective action plan approved by the department. The *insurer* has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected *insurer* and for good cause shown. In the event such an extension is granted, the date by which the *insurer* must cease marketing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the *insurer*.

J. Appeals; Hearings. Any *insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such *insurer* or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every *insurer* or other person filing policy forms, or related forms, for approval by the department shall maintain in their files the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market in accordance with Paragraph H.4 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the *insurer*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive* 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval Cdepartment approval, as a result of the department taking action, following *Compliance Review* of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form Can insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance

coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance Certification by an *insurer*, executed by an officer or authorized representative of the *insurer* on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for *certified approval*.

Certified Approval Cexpedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Compliance*, executed by an officer or authorized representative of the filing *insurer* on forms prescribed by the department. The department shall by *Directive* determine those specific types of coverages and particular types of contracts for which the Certified Approval procedure is either required or available at the option of the *insurer*.

Complete Filing Cthe filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form to be attached to the policy or be a part of the contract, all items required under Subsection C hereof, "General Filing Requirements", and any other requirements as may be set forth in the applicable *Statement of Compliance*.

Compliance Audit Ca retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review Cdepartment review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval Capproval of a complete filing based upon notice, as provided herein, made to the department by the filing *insurer*, following expiration of the specific time periods as provided herein, where Affirmative approval has not been granted and the filing has not been disapproved by the department.

Department Cthe Louisiana Department of Insurance, and includes the commissioner of insurance.

Endorsement Ca written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Filing Organization Can entity authorized by the Louisiana Insurance Rating Commission to act as an advisory or rating organization on behalf of its members and subscribers.

Insurance Product Ca basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract, or a basic insurance policy form which combines more than one line of business within one policy form at a single premium.

Insurer Cevery person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5.

Method of Marketing Cmarketing either through independent or captive agents; telephone, email or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval Ca department notice addressed to an *insurer* granting authorization to implement or revise rates and/or rules on a specified date.

Required Filing Fee C the fee assessed per product or filing pursuant to state insurance law.

Rider Can endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance Ca form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

B. Filing Required

1. Pursuant to R.S. 22:620.A, no basic insurance policy form, other than surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, may be issued or delivered in this state unless and until it has been filed with and approved by the commissioner of insurance. Every page of each such form, including rider and endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page.

2. A Property and Casualty Transmittal Document must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for *certified approval* as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings," and those insurance products which may, at the discretion of the *insurer*, be filed pursuant to said requirements. All insurance products not so designated shall be filed pursuant to the requirements for Compliance Review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Policy Form Filings." Filing organizations are excepted from the mandatory provisions relative to Certified Approval and may, at their option, make filings pursuant to Subsection E hereof.

2. Only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing of a basic insurance policy form will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

- i. required filing fee, per product, per insurance company; or required filing fee per endorsement filing; per insurance company;
- ii. forms filed for approval;
- iii. completed Property and Casualty Transmittal Document, as prescribed by the department;
- iv. *Statement of Compliance* for said product;
- v. duplicate set of the policy forms filing, as filed for approval;

vi. explanation of any rate/rule impact, with a copy of any rate/rule approval letters issued by the department; if none, so state;

vii. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

3. An *insurer* may elect to adopt forms submitted by a filing organization, or have a filing organization file forms on its behalf. An *insurer* may request an effective date later than the effective date of the filing by the filing organization. Such adoptions, whether delayed or not, must be requested by letter. The Forms and Compliance Division staff of the department will verify that the *insurer* is a member or subscriber of the filing organization, and that the forms being adopted have been approved by the department.

a. Adoptions, including delayed adoptions, are filed for informational purposes only, but the request will be denied if the forms proposed for adoption are not approved by the department. To receive an acknowledgement of filing, the *insurer's* request must contain the following items, in order:

- i. required filing fee, per adoption, per insurance company whether or not delayed;
- ii. reference to the filing organization's identification/code number;
- iii. line of business;
- iv. name of the program; and
- v. stamped, self-addressed envelope of sufficient size for use in returning the *insurer's* cover letter bearing the department's stamp of acknowledgement, or disapproval of an adoption.

b. An *insurer* may elect to non-adopt forms submitted by a filing organization. Non-adoptions are filed for informational purposes only, and must be submitted by the *insurer*. To receive an acknowledgement of the informational letter, it must contain the following items, in order:

- i. reference to the filing organization's identification/code number;
- ii. line of business;
- iii. name of the program; and
- iv. stamped, self-addressed envelope of sufficient size for use in returning the *insurer's* cover letter bearing the department's stamp of acknowledgement.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for surety bond forms as exempted by R.S. 22:620 A(1);

2. filings for certain commercial lines, exempted pursuant to the commercial deregulation laws set by Regulation 72;

3. application forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a

complete filing. No filing fees will be required for these filings;

4. forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Policy Form Filings

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions", is received by the department.

2. If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the General Filing Requirements of this Section no less than 45 days in advance of required issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *insurer* may submit written notice to the department that the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

7. The commissioner of insurance may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy forms filing has been deemed approved on a specific date or, advise when the policy forms filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available *Statements of Compliance* setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as *Certification of Compliance* forms.

2. A policy form filing submitted for *certified approval* must include the following documents.

a. *Statement of Compliance* applicable to the form of coverage and contract type being submitted.

b. Signed and dated *Certification of Compliance*.

c. All other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of this Regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming *certified approval* or disapproving the policy form filing, the *insurer* may submit written notice to the department that the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Deemed approval shall not be effective until the *insurer* has so notified the department, by either ordinary mail, facsimile transmission or electronic mail.

5. No *insurer*, or officer, employee or representative of an *insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *insurer* may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing; must comply with all provisions of this Section for such a filing; and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing; must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements"; and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the department on the previous filing.

3. For simplicity, it is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, *insurers* shall not fail to revise and file updated insurance products, or amendatory *riders* or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law.

2. A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. *Insurers* shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall be sent 30 days prior to the market end date and shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department. The *insurer* may request acknowledgement of such notification.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an *insurer*, if the department determines that any of the reasons for disapproval as stated in R.S. 22:621 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected *insurer*.

a. The affected *insurer* may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the *insurer* requesting the hearing. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected *insurer* must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which approval has been withdrawn; and

c. immediately review other products being marketed by the *insurer* to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected *insurer*. The corrective action plan must include the following:

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as

stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the *insurer* desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

4. As of 30 days following receipt of the notice of withdrawal of approval by the department, an affected product shall not be marketed by the *insurer*, except in accordance with a corrective action plan approved by the department. The *insurer* has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected *insurer* and for good cause shown. In the event such an extension is granted, the date by which the *insurer* must cease marketing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the *insurer*.

J. Appeals; Hearings. Any *insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such *insurer* or other person learned of the act, or failure to act, upon which the demand for hearing is based.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every *insurer* or other person filing policy forms, or related forms, for approval by the department shall maintain in their files the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market in accordance with Paragraph H.4 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the *insurer*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10115. Penalties

A. Pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information", in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the Department of Insurance.

2. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than \$5,000, or both.

B. Pursuant to R.S. 22:1214(12), in accordance with all provisions thereof, any violation of a prohibitory provision of this Regulation shall constitute an unfair trade practice, and, after proper notice and hearing as specified by statute, may subject the *insurer* and its officer(s) or representative(s) to:

1. the provisions of R.S. 22:1217, including:

a. payment of a monetary penalty of not more than one thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and,

b. suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of applicable law.

2. The provisions of R.S. 22:1217.1, including:

a. a monetary penalty of not more than \$25,000 for each and every act or violation, not to exceed an aggregate of \$250,000; and,

b. suspension or revocation of such person's license or certificate of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

§10117. Effective Date

A. This regulation shall become effective on January 1, 2003, or upon final publication in the *Louisiana Register* if after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and *Directive 169*.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:

Interested persons may obtain a copy of this proposed regulation, and may submit oral or written comments to Randal Beach, Contracting Attorney, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804, telephone (225) 525-2999.

A public hearing on this proposed regulation will be held on November 8, 2002 at 9 a.m. in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana. All interested persons will be afforded an opportunity to make comments.

J. Robert Wooley
Acting Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Policy Form Filing Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is not anticipated that the adoption of Regulation 78 would result in any implementation costs or savings to local or state governmental units. The proposed rule does not impose new or additional work for the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of proposed Regulation 78 should have no effect on revenue collections of local or state governmental units. The regulation complies with Act 87 of the 2002 First Extra-ordinary Session which is expected to be revenue neutral.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no cost savings or benefits to directly affected persons or non-governmental groups. Rule 78 clarifies existing statutory law and provides for uniform, practicable requirements for form filing, review and approval under the Louisiana Insurance Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of Regulation 78 should have no impact on competition and employment.

Chad M Brown
Deputy Commissioner
0209#049

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Death Penalty (LAC 22:I.103)

In accordance with the Administrative Procedures Act, R.S. 49:953.B, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to adopt amendments to its rules dealing with the Death Penalty.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. - B. ...

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary for execution as directed by the secretary.

D. ...

1. Prior to the scheduled execution, the warden may approve special visits for the condemned inmate.

2. Visits will normally terminate by 3 p.m. on the day of the execution except visits with a priest, minister, religious advisor, or attorney, which will terminate at the direction of the warden or his designee.

E. - F. ...

1. The warden shall select an appropriate area to serve as a press room.

2. In the five days prior to the execution, access to the execution room will be restricted in accordance with institution policy.

3. ...

G Execution Time and Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6 p.m. and 9 p.m. [R.S. 15:570.C].

H. - H.2.a.ii. ...

2.a.iii. a representative selected from all other media persons requesting to be present;

a.iv. - c. ...

i. at least 10 days prior to the execution, the secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter), of the date and time of the execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the secretary's office of their intention to attend;

ii. the number of victim relationship witnesses may be limited to two. If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim relationship witnesses who will be authorized to attend;

H.2.d. - I.1. ...

2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement, if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will

close the curtain to the witness room and signal the I.V. technician(s) to enter. The I.V. technician(s) will appropriately prepare the inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, the appropriate substances in a lethal quantity into the body of the inmate until he is deceased.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567, et seq., (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature, Act No. 159 of the 1991 Regular Session, Act No. 1260 of the 1997 Regular Session and Act No. 145 of the 2002 First Extraordinary Session).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999), LR 28:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953.A.(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of these amendments to the Rules of the Department of Public Safety and Corrections, Corrections Services, to the death penalty rules will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 2002.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Death Penalty

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The minor amendments to the current Rule will not result in any implementation costs or savings to state or local government 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 NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Robert B. Barbor
Executive Counsel
0209#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker Code of Conduct of Licensees
(LAC 42:XI.2417)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2417 in accordance with R.S. 27:15 and 24 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

**Chapter 24. Video Draw Poker
§2417. Code of Conduct of Licensees**

A. - B.5. ...

6.a. No licensee, owner or employee of a licensed establishment shall play or participate in the play of any video draw poker device operated under authority of the licensee's video draw poker license.

b. The prohibition contained in Subparagraph 6.a shall not apply to certified technicians performing service and/or repairing a video draw poker device at any licensed establishment.

C. - C.1.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Gaming Control Board, LR 27:59 (January 2000), amended LR 28:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting LAC 42:XI.2417.B.6.

It is accordingly concluded that adopting LAC 42:XI.2417.B.6 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed Rules,

through October 10, 2002, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Video Draw Poker Code of Conduct of Licensees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs to directly affected persons are expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0209#045

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

New Dealers Fees (LAC 55:IX.107)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable Rules and Regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission proposes to amend an existing Rule. The proposed Rule change has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed rule change will do only one thing:

1. will amend the Rule regarding permit fees that are based on a percentage of gross annual sales of liquefied petroleum gases from .1500 of 1 percent to .1350 of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75.

The proposed Rule changes comply with the statutory authority granted the commission under R.S. 40:1846.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. - A.5.c. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class

VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations. For succeeding years the permit fee shall be .1350 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or .1350 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 15 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:

The commission will hold a public hearing October 17, 2002, 7919 Independence Boulevard, Second Floor., Baton Rouge, LA, at 8:30 a.m. in regard to this change.

Written comments will be accepted through October 10, 2002 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended action.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: New Dealers C Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost increase to the agency will be the cost of publishing in the *Louisiana Register*, which will be insignificant. There will be no increase or decrease in costs to any local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a calculated net revenue decrease to the agency of \$12,800 in FY 02-03, \$40,000 in FY 03-04, and succeeding fiscal years. There will be no effect on revenues for any local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an economic benefit to approximately 100-125 permit holders, who pay in excess of the minimum in permit fees, in the reduction of permit fees calculated to be \$12,800 in FY 02-03, \$40,000 in FY 03-04 and succeeding fiscal years. There will be no economic benefit to any other person or nongovernmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Charles M. Fuller
Director
0209#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Hazardous Materials CResponse, Command
and Coordination; Inventory Form
(LAC 33:V.10112 and 10119)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 30:2361 et seq., gives notice of its intent to amend its Rules regulating chemical inventory filing and those entities involved in emergency response. Specifically, the requirement of electronic filing of chemical inventories will be repealed for small businesses, and the registration requirement for emergency response entities will be repealed.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections C Hazardous Materials

Chapter 101. Hazardous Material Information Development, Preparedness and Response Act

§10112. Response, Command and Coordination

A. As per the authority granted in R.S. 30:2376, the Office of State Police, Transportation and Environmental Safety Section will coordinate emergency response activities arising from any release, or threatened release or incident requiring reporting under these rules. Except as otherwise provided by law, as State On-Scene Coordinator (SOSC), the Louisiana State Police shall have the responsibility to ensure a safe and timely resolution to any hazardous materials release or incident. All responding industries, contractors, and agencies shall participate in the Incident Command process. Only those participants meeting the training requirements of EPA in 40 CFR 311 and OSHA's regulations in 29 CFR 1910.120 shall engage in active response or remedial activities within areas of hazardous materials contamination or threatened release.

B. All persons and facilities regulated by R.S. 30:2361 et seq. shall comply with all the requirements relative to the entry, inspection, investigation, response and emergency coordination efforts of the Office of State Police as authorized in R.S. 30:2361 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:863 (June 2001), LR 28:

§10119. Inventory Form

A. Tier Two "E-filing" is the preferred method of reporting the chemical inventory required in these Rules. All industries and businesses, excepting small businesses, will be required to utilize this electronic means of inventory reporting by March 1, 2002. The use of this "E-filing" process allows for the immediate access of facility and chemical information by all local emergency planning committees and fire departments having Internet capability. Paper filing of "Tier Two Emergency and Hazardous Chemical Inventory" shall be an acceptable alternative to the E-filing of such inventory for March 1, 2001 only.

B. Small businesses, as defined in §10105, are strongly encouraged to report their chemical inventory electronically, but such businesses shall have the option to file their chemical inventory by paper if the electronic reporting creates a hardship.

C. The "Louisiana Tier Two Emergency and Hazardous Chemical Inventory" form is the official inventory form for compliance with R.S. 30:2361-2380 Louisiana's Right-to-Know law, and is the form selected by the Louisiana Emergency Response Commission for inventory reporting as required under Section 312 of SARA. The inventory form can be obtained via the Right-to-Know website at www.dps.state.la.us/rtkcover.html or upon request to the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section-Mail Slip 21, Box 66614, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 16:975 (November 1990), LR 27:865 (June 2001), LR 28:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2002.

Chris Keaton
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hazardous Materials Response, Command and Coordination; Inventory Form

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

While the proposed amendments concerning chemical inventory filing will result in an increased workload for the Louisiana State Police staff who will have to manually input the reported information, there will be no implementation costs associated with the proposed amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue as a result of these Rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Small businesses that elect to report their chemical inventory by mail (as opposed to electronically) will experience increased postage costs and additional workload in filling out forms. Such businesses will benefit by not having to access a computer, as the rules prior to this amendment required all businesses to "E-file" their chemical inventories via a computer. The proposed amendments will allow small businesses to file by mail.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Christopher A. Keaton
Undersecretary
0209#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Definition of Lease or Rental (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of *lease or rental* for sales tax purposes.

These amendments discuss the seven exclusions from the definition of *lease or rental* provided in R.S. 47:301(7). The amendments also provide guidance to lease-rental dealers and their customers in distinguishing between transactions for the *lease or rental* of tangible personal property and transactions for the providing of services.

The department's positions concerning sales taxability provided in this Rule supersede any conflicting positions of taxability or non-taxability provided in department policy/procedure memorandums issued prior to the promulgation date of this Rule. Under Section 61.III.101.C.3 of the *Louisiana Administrative Code*, policy/procedure memoranda are no longer used for the dissemination of tax policy.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the

Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Lease or Rental

a. General. The *lease or rental* of tangible personal property for a consideration in Louisiana is a transaction that is subject to the sales or use tax. The term *lease or rental* means the grant to another of the right to use and possess tangible personal property for a period of time and for a consideration without the transfer of title to the property. In a lease transaction, the lessee obtains possession or use of the tangible personal property, so that the lessee has enjoyment of the property during a certain time period. Re-leases or sub-leases and re-rentals or sub-rentals are also considered as leases or rentals.

b. Statutory Exclusions. Some arrangements or agreements for the use of tangible personal property are specifically excluded in R.S. 47:301(7) (b) through (h) from the definition of *lease or rental*. The types of arrangements or agreements that are not defined as leases or rentals are:

i. the *lease or rental* for re-lease or re-rental of property to be used in connection with the operating, drilling, completion, or reworking of oil, gas, sulfur, or other mineral wells. The *lease or rental* for re-lease or re-rental of casing tools, pipe, drill pipe, tubing, compressors, tanks, pumps, power units, and other drilling or related equipment qualifies for exclusion if the property is to be used for one of the specified purposes. The re-lease or re-rental to the ultimate user is not exempt;

ii. the *lease or rental* of property to be used in the performance of contracts with the United States Navy for the construction or overhaul of U.S. Naval vessels;

iii. the *lease or rental* of airplanes or airplane equipment by commuter airlines domiciled in Louisiana;

iv. the *lease or rental* of items that are reasonably necessary for the operation of free hospitals in Louisiana;

v. the *lease or rental* of certain limited items of educational materials for classroom instruction by approved private and parochial elementary and secondary schools;

vi. the *lease or rental* by Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. of materials for use by those organizations in their educational and public service programs for youth; and

vii. the *lease or rental* of motor vehicles by motor vehicle dealers and manufacturers for use in furnishing to customers in the performance of dealers' or manufacturers' warranty obligations or when the applicable warranty has lapsed and the leased or rented motor vehicle is provided at no charge.

c. Transactions involving both the providing of tangible personal property and the performance of a service.

i. A *lease or rental* does not include providing tangible personal property with an operator who provides some additional service for a fixed or indeterminate period of time when the essence of the transaction is the performance of a service. The essence of the transaction is to provide a service when obtaining the tangible personal property is not an end in and of itself but rather furnishes the mechanism through which a service is provided.

ii. In order to determine the essence of a transaction involving both the performance of a service and the providing of tangible personal property, the facts and circumstances of each transaction must be examined. The following factors suggest, but are not necessarily conclusive, that the essence of the transaction is for the performance of a service:

(a). in order for the tangible personal property to perform as designed, the owner's operator maintains control over the property. This level of control by the owner's operator involves more than maintaining, inspecting, or setting-up the property;

(b). the contract between the owner of the property and the person receiving the services and property provides for the performance of a specific job that requires services for a certain number of hours or until completion of a specific job;

(c). the performance of the job using the tangible personal property is conducted in a manner determined by the owner of the property;

(d). the owner of the tangible personal property is responsible for choosing the particular piece of property to be used in the transaction; or

(e). the owner of the tangible personal property has a standard business practice of not allowing customers to rent the property separately from the services provided.

d. Revenue Sharing Arrangements. Agreements, joint ventures, arrangements, or partnerships between exhibitors (movie theater operators) and film distributors place significant restrictions on the use of the movies and on the proceeds from the use of the movies. These agreements are more in the nature of revenue sharing agreements and would not qualify as leases or rentals because of the restrictions placed on the party using the tangible personal property. An example of this arrangement would be an agreement between an exhibitor and a film distributor that not only stipulates that the proceeds from the showing of the film are to be shared, but also specifies the amount to be charged to the movie patron, the number of and/or the time of showings, or the types or sizes of the facilities where the film is shown.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 25, 2002. A public hearing will be held on Tuesday, October 29, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Definition of Lease or Rental

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed amendment will have no impact on state or local governmental units' costs. This proposal amends the department's interpretation of "lease or rental" for sales tax purposes as defined in R.S. 47:301(7). This proposed amendment will better reflect the actual intent of transactions involving this issue.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There could be an effect on the revenue collections of state and local governmental units as a result of this proposed amendment. This proposal would consider many transactions that had previously been treated as nontaxable services involving tangible personal property to be taxable rentals, which requires payment of sales and use tax. Conversely, taxpayers previously considered to be engaging in nontaxable services involving the use of tangible personal property will

now qualify to purchase tangible personal property tax free under the provisions of R.S. 47:301(10) and (18). These statutes allow an exclusion from sales tax for tangible personal property purchased for lease or rental. Because of this proposed amendment, more vendors would qualify for this exclusion. The net effect of these actions is indeterminable, but thought to result in an immaterial increase over the long term.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed amendment would increase costs to customers of services that were previously considered not taxable while providing an economic benefit to the vendors of those services. The estimated costs to customers and the economic benefits to vendors are indeterminable, but believed to be immaterial.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment should have no effect on competition or employment.

Cynthia Bridges
Secretary
0209#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Definition of Tangible Personal Property
(LAC 61:I.4301)**

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These proposed amendments to LAC 61:I.4301 provide guidance concerning the *first purchase* of *digital television conversion equipment* as defined in R.S. 47:301(16)(i). That statute excludes the *first purchase* of *digital television conversion equipment* by taxpayers that hold a Federal Communications License pursuant to 47 CFR Part 73 from state sales and use tax. This exclusion applies to purchases made after January 1, 1999. The law also allows local taxing authorities to exempt these transactions by ordinance.

The Rule explains the procedures for claiming a credit for the sales or use taxes paid on *first purchases* of *digital television conversion equipment* made prior to June 25, 2002, and after January 1, 1999. It also notifies purchasers about the requirement to file an annual report that lists all qualifying purchases made for the year.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Tangible Personal Property

a. - d. ...

e. - i. Reserved.

j. The *first purchase of digital television conversion equipment* by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73 is excluded from the definition of *tangible personal property* for state sales tax and local sales tax if the local authority adopts this exemption by ordinance.

i. *Digital television conversion equipment* items listed in R.S. 47:301(16)(i).

ii. *First Purchase* the *first purchase* of each item from the categories of *digital television conversion equipment* listed in R.S. 47:301(16)(i).

iii. License holders may obtain a credit for sales taxes paid on the *first purchase of digital television conversion equipment* made after January 1, 1999, and before June 25, 2002, by submitting a request on forms prescribed by the Department of Revenue. Guidelines for claiming the credit will be published in a Revenue Ruling.

iv. License holders may obtain an exemption certificate from the Department of Revenue and make *first purchases* of qualifying digital equipment on or after June 25, 2002, without paying state sales tax or local sales tax in those local jurisdictions that elect to provide an exemption for these purchases. Sales tax paid on *first purchases* of qualifying digital equipment on or after June 25, 2002, may be refunded as tax paid in error.

v. License holders must submit to the Department of Revenue an annual report of the purchases of digital equipment for which exclusion has been claimed that includes all information required by the Department to verify the value of exclusion claimed. Guidelines for submitting this report will be published in a Revenue Ruling.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, October 28, 2002. A public hearing will be held on Wednesday, October 30, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Definition of Tangible Personal Property

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed Regulation, which explains the meaning of "first purchase of digital television conversion equipment" for sales tax purposes, will have no impact on state or local agencies' costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed Regulation, since it only reflects the changes made by Act 61 of 2002 Regular Legislative Session. The fiscal note for Act 61 estimated a reduction in state general fund revenues of \$1.1 million in fiscal year 2002-2003 and of more than \$600,000 in subsequent years. The Department of Revenue's interpretation of the language in Act 61 projects a smaller fiscal impact than that estimated in the fiscal note.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation provides guidance on a sales tax exclusion that was passed in the 2002 Regular Legislative Session. Vendors or purchasers of digital television conversion equipment in Louisiana should benefit directly from this exclusion. The Department of Revenue's interpretation of the economic benefit of this exclusion, which is based on specific language contained in Act 61, is less than that estimated in the Act's fiscal note.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed Regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0209#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Furnishing of Cold Storage Space (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of the *furnishing of cold storage space* for sales tax purposes.

Revised Statute 47:301(14)(f) defines *sales of services* to include "the *furnishing of cold storage space*, except that space which is furnished pursuant to a bailment arrangement, and the furnishing of the service of *preparing tangible personal property for cold storage*, where such service is incidental to the operation of storage facilities." These proposed amendments provide guidance concerning the types of transactions that are within the purview of the statute. The service *furnishing of cold storage space* is interpreted to mean transactions in which customers, for consideration, are provided designated spaces that are artificially frozen or refrigerated. The proposed amendments also clarify that sales tax must be collected on the charges for *preparing tangible personal property for cold storage*, such as packaging, wrapping, containerizing, cleaning, or washing, when provided in conjunction with the *furnishing of cold storage space*.

Under the proposed Rule, the furnishing of air-conditioned warehouses or mini-storage units, that are cooled only to a normal room temperature level or above, and transactions in which possession of the customers' property is transferred to the owner or operator of a frozen or refrigerated facility for retention and safekeeping in the facility as in a bailment or deposit are not considered the *furnishing of cold storage space* for sales tax purposes.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Sales of Services

a. - g.iii. ...

h. R.S. 47:301(14)(f) defines the furnishing of cold storage space and preparing tangible personal property for cold storage as services subject to sales and use tax.

i. *Cold Storage Space*—a space that is artificially frozen or refrigerated to prevent the stored items from perishing or deteriorating.

ii. *Furnishing of Cold Storage Space*—transactions in which *cold storage space* is provided to customers for a consideration when the owner or operator of the *cold storage space* designates specific areas or volumes of space for the customers' use. The customers are required to compensate for the space allotted regardless of the degree of use of the space.

iii. Transactions that are not considered the *furnishing of cold storage space* for sales tax purposes include:

(a). storage space in air-conditioned warehouses or mini-storage units that are cooled to a normal room temperature level; and

(b) storage space in facilities where the possession of customers' property is transferred to the owner or operator of a *cold storage space* for retention and safekeeping as in a bailment or deposit transaction.

iv. *Preparing Tangible Personal Property for Cold Storage*—Call activities necessary to prepare the product to be stored for cold storage. This includes but is not limited to packaging, wrapping, containerizing, cleaning or washing.

(a). *Preparing tangible personal property for cold storage* is included in *sales of services* only if it is incidental to the operation of cold storage facilities.

(b). Separately stated charges for handling the property to be placed in or removed from the facility are not subject to the sales tax. If handling charges are included in the price for the *furnishing of cold storage space* or *preparing tangible personal property for cold storage*, tax is due on the entire amount.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, IR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, October 25, 2002. A public hearing will be held on Tuesday, October 29, 2002, at 1:30 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Furnishing of Cold Storage Space

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
These proposed amendments clarify the definitions of "cold storage" and "preparing tangible personal property for cold storage" provided in R.S. 47:301(14)(f) and makes the Rule consistent with Act 58 of the 2002 Regular Legislative Session. Implementation of these proposed amendments will have no impact on state or local governmental units' costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on the sales and use tax collections of state and local governmental units as a result of these proposed amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These proposed amendments should not increase costs or provide economic benefits to customers who purchase or vendors who sell the services of "cold storage" and "preparing tangible personal property for cold storage."
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
These proposed amendments should have no effect on competition or employment.

Cynthia Bridges
Secretary
0209#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Income Tax Withholding Tables
(LAC 61:I.1501)**

Under the authority of R.S. 47:112, R.S. 47:295, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1501 to establish individual income tax withholding tables based on the new income tax rates provided by Act 51 of the 2002 Regular Session of the Louisiana Legislature.

Act 51 amended both R.S. 47:112, which requires every employer paying wages to deduct and withhold income tax from those wages, and R.S. 47:295, which provides for the tax rates. These statutory amendments will be effective January 1, 2003, only if the proposed constitutional

amendment contained in Act 88 of the 2002 Regular Session of the Louisiana Legislature is adopted at the statewide election to be held November 5, 2002.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 15 Income: Withholding Tax

§1501. Income Tax Withholding Tables

A. Employers required to deduct and withhold taxes pursuant to R.S. 47:112 shall deduct and withhold tax in an amount determined in accordance with the tables provided in Subsection C, the formula provided in Subsection D, or a formula that produces equivalent amounts.

B. Wage Bracket Tables and Instructions

1. Select the set of tables that corresponds to the payroll period of the employee.

2. With the use of the information obtained from Form R-1300 (L-4), *Employee's Withholding Exemption Certificate*, determine which column of the tables to use.

a. If your employee claims neither himself, his spouse, nor any dependency credits, use the first column in the table designated 0 exemptions, 0 dependents.

b. If your employee claims only himself, whether he is married or not, use Column 1. Also, use the appropriate subcolumn for the number of dependency credits he is claiming.

c. If your employee claims himself and his spouse, use Column 2. Also, use the appropriate subcolumn for the number of dependency credits he is claiming.

C. Withholding Tax Tables

1. For the Purposes of the Withholding Tax Tables

a. Exemptions are for a husband, wife, or single filer.

b. Dependency credits include children, stepchildren, etc., as described in Section 152 of the Internal Revenue Code.

2. Adjustments to Wage Bracket Tables

a. Each table provides for the appropriate withholding amount for single or married personal exemptions with up to six dependency credits. There is no provision for withholding based on head-of-household status and these taxpayers may claim only a single withholding personal exemption.

b. When an employee has more than six dependents, the amount may be determined by reducing the tax shown in the column for six dependents by the amount shown below for the applicable payroll period multiplied by the number of dependents over six.

Payroll Period	Amount of Reduction
Daily	\$0.08
Weekly	0.40
Biweekly	0.80
Semimonthly	0.85
Monthly	1.70

c. When the employee claims only credit for dependents and no withholding personal exemption, the amount to be deducted and withheld should be determined by reducing the amount selected under the column for employees claiming no exemption or credits by the amount in Subparagraph b above multiplied by the number of dependents claimed.

3. Withholding Tables

Daily Louisiana Income Tax Withholding Table																
Exemptions:		0	1						2							
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6
Salary Range:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6
Min	Max															
0.00	50.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10.01	12.00	0.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12.01	14.00	0.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
14.01	16.00	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
16.01	18.00	0.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
18.01	20.00	0.40	0.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
20.01	22.00	0.44	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
22.01	24.00	0.48	0.12	0.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
24.01	26.00	0.53	0.16	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
26.01	28.00	0.57	0.20	0.12	0.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
28.01	30.00	0.61	0.25	0.17	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
30.01	32.00	0.65	0.29	0.21	0.13	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
32.01	34.00	0.69	0.33	0.25	0.17	0.09	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
34.01	36.00	0.74	0.37	0.29	0.21	0.13	0.05	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00	0.00
36.01	38.00	0.78	0.41	0.33	0.25	0.17	0.09	0.01	0.00	0.05	0.00	0.00	0.00	0.00	0.00	0.00
38.01	40.00	0.82	0.46	0.38	0.29	0.21	0.13	0.05	0.00	0.09	0.01	0.00	0.00	0.00	0.00	0.00
40.01	42.00	0.86	0.50	0.42	0.34	0.26	0.17	0.09	0.01	0.13	0.05	0.00	0.00	0.00	0.00	0.00
42.01	44.00	0.90	0.54	0.46	0.38	0.30	0.22	0.14	0.06	0.18	0.10	0.02	0.00	0.00	0.00	0.00
44.01	46.00	0.95	0.58	0.50	0.42	0.34	0.26	0.18	0.10	0.22	0.14	0.06	0.00	0.00	0.00	0.00
46.01	48.00	0.99	0.62	0.54	0.46	0.38	0.30	0.22	0.14	0.26	0.18	0.10	0.02	0.00	0.00	0.00
48.01	50.00	1.04	0.68	0.60	0.52	0.44	0.35	0.27	0.19	0.30	0.22	0.14	0.06	0.00	0.00	0.00
50.01	52.00	1.11	0.75	0.67	0.59	0.50	0.42	0.34	0.26	0.34	0.26	0.18	0.10	0.02	0.00	0.00
52.01	54.00	1.18	0.82	0.74	0.65	0.57	0.49	0.41	0.33	0.39	0.31	0.23	0.14	0.06	0.00	0.00
54.01	56.00	1.25	0.89	0.80	0.72	0.64	0.56	0.48	0.40	0.43	0.35	0.27	0.19	0.11	0.02	0.00
56.01	58.00	1.32	0.95	0.87	0.79	0.71	0.63	0.55	0.47	0.47	0.39	0.31	0.23	0.15	0.07	0.00
58.01	60.00	1.39	1.02	0.94	0.86	0.78	0.70	0.62	0.54	0.51	0.43	0.35	0.27	0.19	0.11	0.03
60.01	62.00	1.46	1.09	1.01	0.93	0.85	0.77	0.69	0.61	0.55	0.47	0.39	0.31	0.23	0.15	0.07
62.01	64.00	1.52	1.16	1.08	1.00	0.92	0.84	0.76	0.68	0.60	0.52	0.44	0.35	0.27	0.19	0.11
64.01	66.00	1.59	1.23	1.15	1.07	0.99	0.91	0.83	0.75	0.64	0.56	0.48	0.40	0.32	0.23	0.15
66.01	68.00	1.66	1.30	1.22	1.14	1.06	0.98	0.90	0.81	0.68	0.60	0.52	0.44	0.36	0.28	0.20
68.01	70.00	1.73	1.37	1.29	1.21	1.13	1.04	0.96	0.88	0.72	0.64	0.56	0.48	0.40	0.32	0.24
70.01	72.00	1.80	1.44	1.36	1.28	1.19	1.11	1.03	0.95	0.76	0.68	0.60	0.52	0.44	0.36	0.28
72.01	74.00	1.87	1.51	1.43	1.34	1.26	1.18	1.10	1.02	0.81	0.73	0.65	0.56	0.48	0.40	0.32
74.01	76.00	1.94	1.58	1.49	1.41	1.33	1.25	1.17	1.09	0.85	0.77	0.69	0.61	0.53	0.44	0.36
76.01	78.00	2.01	1.64	1.56	1.48	1.40	1.32	1.24	1.16	0.89	0.81	0.73	0.65	0.57	0.49	0.41
78.01	80.00	2.08	1.71	1.63	1.55	1.47	1.39	1.31	1.23	0.93	0.85	0.77	0.69	0.61	0.53	0.45
80.01	82.00	2.15	1.78	1.70	1.62	1.54	1.46	1.38	1.30	0.97	0.89	0.81	0.73	0.65	0.57	0.49
82.01	84.00	2.21	1.85	1.77	1.69	1.61	1.53	1.45	1.37	1.02	0.94	0.86	0.77	0.69	0.61	0.53
84.01	86.00	2.28	1.92	1.84	1.76	1.68	1.60	1.52	1.44	1.06	0.98	0.90	0.82	0.74	0.65	0.57
86.01	88.00	2.35	1.99	1.91	1.83	1.75	1.67	1.59	1.50	1.10	1.02	0.94	0.86	0.78	0.70	0.62
88.01	90.00	2.42	2.06	1.98	1.90	1.82	1.73	1.65	1.57	1.14	1.06	0.98	0.90	0.82	0.74	0.66
90.01	92.00	2.49	2.13	2.05	1.97	1.88	1.80	1.72	1.64	1.18	1.10	1.02	0.94	0.86	0.78	0.70
92.01	94.00	2.56	2.20	2.12	2.03	1.95	1.87	1.79	1.71	1.23	1.15	1.07	0.98	0.90	0.82	0.74
94.01	96.00	2.63	2.27	2.18	2.10	2.02	1.94	1.86	1.78	1.27	1.19	1.11	1.03	0.95	0.86	0.78
96.01	98.00	2.71	2.35	2.26	2.18	2.10	2.02	1.94	1.86	1.32	1.24	1.16	1.08	1.00	0.92	0.84
98.01	100.00	2.80	2.44	2.36	2.28	2.20	2.12	2.04	1.96	1.39	1.31	1.23	1.15	1.07	0.99	0.91
100.01	102.00	2.90	2.54	2.46	2.38	2.29	2.21	2.13	2.05	1.46	1.38	1.30	1.22	1.14	1.06	0.97
102.01	104.00	3.00	2.63	2.55	2.47	2.39	2.31	2.23	2.15	1.53	1.45	1.37	1.29	1.21	1.12	1.04
104.01	106.00	3.09	2.73	2.65	2.57	2.49	2.41	2.33	2.24	1.60	1.52	1.44	1.36	1.27	1.19	1.11
106.01	108.00	3.19	2.83	2.74	2.66	2.58	2.50	2.42	2.34	1.67	1.59	1.51	1.42	1.34	1.26	1.18
108.01	110.00	3.28	2.92	2.84	2.76	2.68	2.60	2.52	2.44	1.74	1.65	1.57	1.49	1.41	1.33	1.25
110.01	112.00	3.38	3.02	2.94	2.86	2.77	2.69	2.61	2.53	1.80	1.72	1.64	1.56	1.48	1.40	1.32
112.01	114.00	3.48	3.11	3.03	2.95	2.87	2.79	2.71	2.63	1.87	1.79	1.71	1.63	1.55	1.47	1.39
114.01	116.00	3.57	3.21	3.13	3.05	2.97	2.89	2.81	2.72	1.94	1.86	1.78	1.70	1.62	1.54	1.46
116.01	118.00	3.67	3.31	3.22	3.14	3.06	2.98	2.90	2.82	2.01	1.93	1.85	1.77	1.69	1.61	1.53
118.01	120.00	3.76	3.40	3.32	3.24	3.16	3.08	3.00	2.92	2.08	2.00	1.92	1.84	1.76	1.68	1.60
120.01	122.00	3.86	3.50	3.42	3.34	3.25	3.17	3.09	3.01	2.15	2.07	1.99	1.91	1.83	1.75	1.66
122.01	124.00	3.96	3.59	3.51	3.43	3.35	3.27	3.19	3.11	2.22	2.14	2.06	1.98	1.90	1.81	1.73
124.01	126.00	4.05	3.69	3.61	3.53	3.45	3.37	3.29	3.20	2.29	2.21	2.13	2.05	1.96	1.88	1.80
126.01	128.00	4.15	3.79	3.70	3.62	3.54	3.46	3.38	3.30	2.36	2.28	2.20	2.11	2.03	1.95	1.87
128.01	130.00	4.24	3.88	3.80	3.72	3.64	3.56	3.48	3.40	2.43	2.34	2.26	2.18	2.10	2.02	1.94
130.01	132.00	4.34	3.98	3.90	3.82	3.73	3.65	3.57	3.49	2.49	2.41	2.33	2.25	2.17	2.09	2.01
132.01	134.00	4.44	4.07	3.99	3.91	3.83	3.75	3.67	3.59	2.56	2.48	2.40	2.32	2.24	2.16	2.08

134.01	136.00	4.53	4.17	4.09	4.01	3.93	3.85	3.77	3.68	2.63	2.55	2.47	2.39	2.31	2.23	2.15
136.01	138.00	4.63	4.27	4.18	4.10	4.02	3.94	3.86	3.78	2.70	2.62	2.54	2.46	2.38	2.30	2.22
138.01	140.00	4.72	4.36	4.28	4.20	4.12	4.04	3.96	3.88	2.77	2.69	2.61	2.53	2.45	2.37	2.29
140.01	142.00	4.82	4.46	4.38	4.30	4.21	4.13	4.05	3.97	2.84	2.76	2.68	2.60	2.52	2.44	2.35
142.01	144.00	4.92	4.55	4.47	4.39	4.31	4.23	4.15	4.07	2.91	2.83	2.75	2.67	2.59	2.50	2.42
144.01	146.00	5.01	4.65	4.57	4.49	4.41	4.33	4.25	4.16	2.98	2.90	2.82	2.74	2.65	2.57	2.49
146.01	148.00	5.11	4.75	4.66	4.58	4.50	4.42	4.34	4.26	3.05	2.97	2.89	2.80	2.72	2.64	2.56
148.01	150.00	5.20	4.84	4.76	4.68	4.60	4.52	4.44	4.36	3.12	3.03	2.95	2.87	2.79	2.71	2.63
150.01	152.00	5.30	4.94	4.86	4.78	4.69	4.61	4.53	4.45	3.18	3.10	3.02	2.94	2.86	2.78	2.70
152.01	154.00	5.40	5.03	4.95	4.87	4.79	4.71	4.63	4.55	3.25	3.17	3.09	3.01	2.93	2.85	2.77
154.01	156.00	5.49	5.13	5.05	4.97	4.89	4.81	4.73	4.64	3.32	3.24	3.16	3.08	3.00	2.92	2.84
156.01	158.00	5.59	5.23	5.14	5.06	4.98	4.90	4.82	4.74	3.39	3.31	3.23	3.15	3.07	2.99	2.91
158.01	160.00	5.68	5.32	5.24	5.16	5.08	5.00	4.92	4.84	3.46	3.38	3.30	3.22	3.14	3.06	2.98
160.01	162.00	5.78	5.42	5.34	5.26	5.17	5.09	5.01	4.93	3.53	3.45	3.37	3.29	3.21	3.13	3.04
162.01	164.00	5.88	5.51	5.43	5.35	5.27	5.19	5.11	5.03	3.60	3.52	3.44	3.36	3.28	3.19	3.11
164.01	166.00	5.97	5.61	5.53	5.45	5.37	5.29	5.21	5.12	3.67	3.59	3.51	3.43	3.34	3.26	3.18
166.01	168.00	6.07	5.71	5.62	5.54	5.46	5.38	5.30	5.22	3.74	3.66	3.58	3.49	3.41	3.33	3.25
168.01	170.00	6.16	5.80	5.72	5.64	5.56	5.48	5.40	5.32	3.81	3.72	3.64	3.56	3.48	3.40	3.32
170.01	172.00	6.26	5.90	5.82	5.74	5.65	5.57	5.49	5.41	3.87	3.79	3.71	3.63	3.55	3.47	3.39
172.01	174.00	6.36	5.99	5.91	5.83	5.75	5.67	5.59	5.51	3.94	3.86	3.78	3.70	3.62	3.54	3.46
174.01	176.00	6.45	6.09	6.01	5.93	5.85	5.77	5.69	5.60	4.01	3.93	3.85	3.77	3.69	3.61	3.53
176.01	178.00	6.55	6.19	6.10	6.02	5.94	5.86	5.78	5.70	4.08	4.00	3.92	3.84	3.76	3.68	3.60
178.01	180.00	6.64	6.28	6.20	6.12	6.04	5.96	5.88	5.80	4.15	4.07	3.99	3.91	3.83	3.75	3.67
180.01	182.00	6.74	6.38	6.30	6.22	6.13	6.05	5.97	5.89	4.22	4.14	4.06	3.98	3.90	3.82	3.73
182.01	184.00	6.84	6.47	6.39	6.31	6.23	6.15	6.07	5.99	4.29	4.21	4.13	4.05	3.97	3.88	3.80
184.01	186.00	6.93	6.57	6.49	6.41	6.33	6.25	6.17	6.08	4.36	4.28	4.20	4.12	4.03	3.95	3.87
186.01	188.00	7.03	6.67	6.58	6.50	6.42	6.34	6.26	6.18	4.43	4.35	4.27	4.18	4.10	4.02	3.94
188.01	190.00	7.12	6.76	6.68	6.60	6.52	6.44	6.36	6.28	4.50	4.41	4.33	4.25	4.17	4.09	4.01
190.01	192.00	7.22	6.86	6.78	6.70	6.61	6.53	6.45	6.37	4.56	4.48	4.40	4.32	4.24	4.16	4.08
192.01	194.00	7.32	6.95	6.87	6.79	6.71	6.63	6.55	6.47	4.64	4.56	4.48	4.40	4.32	4.24	4.16

Add 4.80% for amounts in excess of \$194

Weekly Louisiana Income Tax Withholding Table																
Exemptions:	0		1							2						
Dependents:	0	0	1	2	3	4	5	6	0	1	2	3	4	5	6	
Salary Range:	Min		Max													
0.00	50.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
50.01	70.00	1.26	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
70.01	90.00	1.68	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
90.01	110.00	2.10	0.28	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
110.01	130.00	2.52	0.70	0.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
130.01	150.00	2.94	1.12	0.72	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
150.01	170.00	3.36	1.54	1.14	0.74	0.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
170.01	190.00	3.78	1.96	1.56	1.16	0.75	0.35	0.00	0.00	0.15	0.00	0.00	0.00	0.00	0.00	
190.01	210.00	4.20	2.38	1.98	1.58	1.17	0.77	0.36	0.00	0.57	0.16	0.00	0.00	0.00	0.00	
210.01	230.00	4.62	2.80	2.40	2.00	1.59	1.19	0.78	0.38	0.99	0.58	0.18	0.00	0.00	0.00	
230.01	250.00	5.04	3.22	2.82	2.42	2.01	1.61	1.20	0.80	1.41	1.00	0.60	0.19	0.00	0.00	
250.01	270.00	5.72	3.91	3.50	3.10	2.70	2.29	1.89	1.48	1.83	1.42	1.02	0.61	0.21	0.00	
270.01	290.00	6.41	4.60	4.19	3.79	3.39	2.98	2.58	2.17	2.25	1.84	1.44	1.03	0.63	0.23	
290.01	310.00	7.10	5.29	4.88	4.48	4.08	3.67	3.27	2.86	2.67	2.26	1.86	1.45	1.05	0.65	
310.01	330.00	7.79	5.98	5.57	5.17	4.77	4.36	3.96	3.55	3.09	2.68	2.28	1.87	1.47	1.07	
330.01	350.00	8.48	6.67	6.26	5.86	5.46	5.05	4.65	4.24	3.51	3.10	2.70	2.29	1.89	1.49	
350.01	370.00	9.17	7.36	6.95	6.55	6.15	5.74	5.34	4.93	3.93	3.52	3.12	2.71	2.31	1.91	
370.01	390.00	9.86	8.05	7.64	7.24	6.84	6.43	6.03	5.62	4.35	3.94	3.54	3.13	2.73	2.33	
390.01	410.00	10.55	8.74	8.33	7.93	7.53	7.12	6.72	6.31	4.77	4.36	3.96	3.55	3.15	2.75	
410.01	430.00	11.24	9.43	9.02	8.62	8.22	7.81	7.41	7.00	5.19	4.78	4.38	3.97	3.57	3.17	
430.01	450.00	11.93	10.12	9.71	9.31	8.91	8.50	8.10	7.69	5.61	5.20	4.80	4.39	3.99	3.59	
450.01	470.00	12.62	10.81	10.40	10.00	9.60	9.19	8.79	8.38	6.03	5.62	5.22	4.81	4.41	4.01	
470.01	490.00	13.31	11.50	11.09	10.69	10.29	9.88	9.48	9.07	6.45	6.04	5.64	5.23	4.83	4.43	
490.01	510.00	14.26	12.45	12.04	11.64	11.24	10.83	10.43	10.02	7.12	6.72	6.32	5.91	5.51	5.11	
510.01	530.00	15.22	13.41	13.00	12.60	12.20	11.79	11.39	10.98	7.81	7.41	7.01	6.60	6.20	5.80	
530.01	550.00	16.18	14.37	13.96	13.56	13.16	12.75	12.35	11.94	8.50	8.10	7.70	7.29	6.89	6.49	
550.01	570.00	17.14	15.33	14.92	14.52	14.12	13.71	13.31	12.90	9.19	8.79	8.39	7.98	7.58	7.18	
570.01	590.00	18.10	16.29	15.88	15.48	15.08	14.67	14.27	13.86	9.88	9.48	9.08	8.67	8.27	7.87	
590.01	610.00	19.06	17.25	16.84	16.44	16.04	15.63	15.23	14.82	10.57	10.17	9.77	9.36	8.96	8.56	
610.01	630.00	20.02	18.21	17.80	17.40	17.00	16.59	16.19	15.78	11.26	10.86	10.46	10.05	9.65	9.25	
630.01	650.00	20.98	19.17	18.76	18.36	17.96	17.55	17.15	16.74	11.95	11.55	11.15	10.74	10.34	9.94	
650.01	670.00	21.94	20.13	19.72	19.32	18.92	18.51	18.11	17.70	12.64	12.24	11.84	11.43	11.03	10.63	
670.01	690.00	22.90	21.09	20.68	20.28	19.88	19.47	19.07	18.66	13.33	12.93	12.53	12.12	11.72	11.32	

Weekly Louisiana Income Tax Withholding Table																	
Exemptions:		0		1						2							
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6	
Salary Range:																	
Min	Max																
690.01	710.00	23.86	22.05	21.64	21.24	20.84	20.43	20.03	19.62	14.02	13.62	13.22	12.81	12.41	12.01	11.60	
710.01	730.00	24.82	23.01	22.60	22.20	21.80	21.39	20.99	20.58	14.71	14.31	13.91	13.50	13.10	12.70	12.29	
730.01	750.00	25.78	23.97	23.56	23.16	22.76	22.35	21.95	21.54	15.40	15.00	14.60	14.19	13.79	13.39	12.98	
750.01	770.00	26.74	24.93	24.52	24.12	23.72	23.31	22.91	22.50	16.09	15.69	15.29	14.88	14.48	14.08	13.67	
770.01	790.00	27.70	25.89	25.48	25.08	24.68	24.27	23.87	23.46	16.78	16.38	15.98	15.57	15.17	14.77	14.36	
790.01	810.00	28.66	26.85	26.44	26.04	25.64	25.23	24.83	24.42	17.47	17.07	16.67	16.26	15.86	15.46	15.05	
810.01	830.00	29.62	27.81	27.40	27.00	26.60	26.19	25.79	25.38	18.16	17.76	17.36	16.95	16.55	16.15	15.74	
830.01	850.00	30.58	28.77	28.36	27.96	27.56	27.15	26.75	26.34	18.85	18.45	18.05	17.64	17.24	16.84	16.43	
850.01	870.00	31.54	29.73	29.32	28.92	28.52	28.11	27.71	27.30	19.54	19.14	18.74	18.33	17.93	17.53	17.12	
870.01	890.00	32.50	30.69	30.28	29.88	29.48	29.07	28.67	28.26	20.23	19.83	19.43	19.02	18.62	18.22	17.81	
890.01	910.00	33.46	31.65	31.24	30.84	30.44	30.03	29.63	29.22	20.92	20.52	20.12	19.71	19.31	18.91	18.50	
910.01	930.00	34.42	32.61	32.20	31.80	31.40	30.99	30.59	30.18	21.61	21.21	20.81	20.40	20.00	19.60	19.19	
930.01	950.00	35.38	33.57	33.16	32.76	32.36	31.95	31.55	31.14	22.30	21.90	21.50	21.09	20.69	20.29	19.88	
950.01	970.00	36.34	34.53	34.12	33.72	33.32	32.91	32.51	32.10	22.99	22.59	22.19	21.78	21.38	20.98	20.57	
970.01	990.00	37.30	35.49	35.08	34.68	34.28	33.87	33.47	33.06	23.68	23.28	22.88	22.47	22.07	21.67	21.26	

Add 4.80% for amounts in excess of \$990

Biweekly Louisiana Income Tax Withholding Table																	
Exemptions:		0		1						2							
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6	
Salary Range:																	
Min	Max																
0.00	100.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
100.01	140.00	2.52	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
140.01	180.00	3.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
180.01	220.00	4.20	0.57	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
220.01	260.00	5.04	1.41	0.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
260.01	300.00	5.88	2.25	1.44	0.63	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
300.01	340.00	6.72	3.09	2.28	1.47	0.66	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
340.01	380.00	7.56	3.93	3.12	2.31	1.50	0.69	0.00	0.00	0.29	0.00	0.00	0.00	0.00	0.00	0.00	
380.01	420.00	8.40	4.77	3.96	3.15	2.34	1.54	0.73	0.00	1.13	0.32	0.00	0.00	0.00	0.00	0.00	
420.01	460.00	9.24	5.61	4.80	3.99	3.18	2.38	1.57	0.76	1.97	1.16	0.36	0.00	0.00	0.00	0.00	
460.01	500.00	10.08	6.45	5.64	4.83	4.02	3.22	2.41	1.60	2.81	2.00	1.20	0.39	0.00	0.00	0.00	
500.01	540.00	11.45	7.81	7.01	6.20	5.39	4.58	3.78	2.97	3.65	2.84	2.04	1.23	0.42	0.00	0.00	
540.01	580.00	12.83	9.19	8.39	7.58	6.77	5.96	5.16	4.35	4.49	3.68	2.88	2.07	1.26	0.45	0.00	
580.01	620.00	14.21	10.57	9.77	8.96	8.15	7.34	6.54	5.73	5.33	4.52	3.72	2.91	2.10	1.29	0.48	
620.01	660.00	15.59	11.95	11.15	10.34	9.53	8.72	7.92	7.11	6.17	5.36	4.56	3.75	2.94	2.13	1.33	
660.01	700.00	16.97	13.33	12.53	11.72	10.91	10.10	9.30	8.49	7.01	6.20	5.40	4.59	3.78	2.97	2.17	
700.01	740.00	18.35	14.71	13.91	13.10	12.29	11.48	10.68	9.87	7.85	7.04	6.24	5.43	4.62	3.81	3.01	
740.01	780.00	19.73	16.09	15.29	14.48	13.67	12.86	12.06	11.25	8.69	7.88	7.08	6.27	5.46	4.65	3.85	
780.01	820.00	21.11	17.47	16.67	15.86	15.05	14.24	13.44	12.63	9.53	8.72	7.92	7.11	6.30	5.49	4.69	
820.01	860.00	22.49	18.85	18.05	17.24	16.43	15.62	14.82	14.01	10.37	9.56	8.76	7.95	7.14	6.33	5.53	
860.01	900.00	23.87	20.23	19.43	18.62	17.81	17.00	16.20	15.39	11.21	10.40	9.60	8.79	7.98	7.17	6.37	
900.01	940.00	25.25	21.61	20.81	20.00	19.19	18.38	17.58	16.77	12.05	11.24	10.44	9.63	8.82	8.01	7.21	
940.01	980.00	26.63	22.99	22.19	21.38	20.57	19.76	18.96	18.15	12.89	12.08	11.28	10.47	9.66	8.85	8.05	
980.01	1,020.00	28.53	24.89	24.09	23.28	22.47	21.66	20.86	20.05	14.25	13.44	12.63	11.83	11.02	10.21	9.40	
1,020.01	1,060.00	30.45	26.81	26.01	25.20	24.39	23.58	22.78	21.97	15.63	14.82	14.01	13.21	12.40	11.59	10.78	
1,060.01	1,100.00	32.37	28.73	27.93	27.12	26.31	25.50	24.70	23.89	17.01	16.20	15.39	14.59	13.78	12.97	12.16	
1,100.01	1,140.00	34.29	30.65	29.85	29.04	28.23	27.42	26.62	25.81	18.39	17.58	16.77	15.97	15.16	14.35	13.54	
1,140.01	1,180.00	36.21	32.57	31.77	30.96	30.15	29.34	28.54	27.73	19.77	18.96	18.15	17.35	16.54	15.73	14.92	
1,180.01	1,220.00	38.13	34.49	33.69	32.88	32.07	31.26	30.46	29.65	21.15	20.34	19.53	18.73	17.92	17.11	16.30	
1,220.01	1,260.00	40.05	36.41	35.61	34.80	33.99	33.18	32.38	31.57	22.53	21.72	20.91	20.11	19.30	18.49	17.68	
1,260.01	1,300.00	41.97	38.33	37.53	36.72	35.91	35.10	34.30	33.49	23.91	23.10	22.29	21.49	20.68	19.87	19.06	
1,300.01	1,340.00	43.89	40.25	39.45	38.64	37.83	37.02	36.22	35.41	25.29	24.48	23.67	22.87	22.06	21.25	20.44	
1,340.01	1,380.00	45.81	42.17	41.37	40.56	39.75	38.94	38.14	37.33	26.67	25.86	25.05	24.25	23.44	22.63	21.82	
1,380.01	1,420.00	47.73	44.09	43.29	42.48	41.67	40.86	40.06	39.25	28.05	27.24	26.43	25.63	24.82	24.01	23.20	
1,420.01	1,460.00	49.65	46.01	45.21	44.40	43.59	42.78	41.98	41.17	29.43	28.62	27.81	27.01	26.20	25.39	24.58	
1,460.01	1,500.00	51.57	47.93	47.13	46.32	45.51	44.70	43.90	43.09	30.81	30.00	29.19	28.39	27.58	26.77	25.96	
1,500.01	1,540.00	53.49	49.85	49.05	48.24	47.43	46.62	45.82	45.01	32.19	31.38	30.57	29.77	28.96	28.15	27.34	
1,540.01	1,580.00	55.41	51.77	50.97	50.16	49.35	48.54	47.74	46.93	33.57	32.76	31.95	31.15	30.34	29.53	28.72	
1,580.01	1,620.00	57.33	53.69	52.89	52.08	51.27	50.46	49.66	48.85	34.95	34.14	33.33	32.53	31.72	30.91	30.10	
1,620.01	1,660.00	59.25	55.61	54.81	54.00	53.19	52.38	51.58	50.77	36.33	35.52	34.71	33.91	33.10	32.29	31.48	
1,660.01	1,700.00	61.17	57.53	56.73	55.92	55.11	54.30	53.50	52.69	37.71	36.90	36.09	35.29	34.48	33.67	32.86	
1,700.01	1,740.00	63.09	59.45	58.65	57.84	57.03	56.22	55.42	54.61	39.09	38.28	37.47	36.67	35.86	35.05	34.24	
1,740.01	1,780.00	65.01	61.37	60.57	59.76	58.95	58.14	57.34	56.53	40.47	39.66	38.85	38.05	37.24	36.43	35.62	

1,780.01	1,820.00	66.93	63.29	62.49	61.68	60.87	60.06	59.26	58.45	41.85	41.04	40.23	39.43	38.62	37.81	37.00
1,820.01	1,860.00	68.85	65.21	64.41	63.60	62.79	61.98	61.18	60.37	43.23	42.42	41.61	40.81	40.00	39.19	38.38
1,860.01	1,900.00	70.77	67.13	66.33	65.52	64.71	63.90	63.10	62.29	44.61	43.80	42.99	42.19	41.38	40.57	39.76
1,900.01	1,940.00	72.69	69.05	68.25	67.44	66.63	65.82	65.02	64.21	45.99	45.18	44.37	43.57	42.76	41.95	41.14
1,940.01	1,980.00	74.61	70.97	70.17	69.36	68.55	67.74	66.94	66.13	47.87	47.06	46.25	45.45	44.64	43.83	43.02

Add 4.80% for amounts in excess of \$1,980

Semimonthly Louisiana Income Tax Withholding Table																		
Exemptions:	0		1								2							
Dependents:	0	0	1	2	3	4	5	6	0	1	2	3	4	5	6			
Salary Range:																		
Min	Max																	
0.00	100.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
100.01	140.00	2.52	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
140.01	180.00	3.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
180.01	220.00	4.20	0.26	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
220.01	260.00	5.04	1.10	0.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
260.01	300.00	5.88	1.94	1.07	0.19	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
300.01	340.00	6.72	2.78	1.91	1.03	0.16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
340.01	380.00	7.56	3.62	2.75	1.87	1.00	0.12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
380.01	420.00	8.40	4.46	3.59	2.71	1.84	0.96	0.09	0.00	0.53	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
420.01	460.00	9.24	5.30	4.43	3.55	2.68	1.80	0.93	0.05	1.37	0.49	0.00	0.00	0.00	0.00	0.00	0.00	
460.01	500.00	10.08	6.14	5.27	4.39	3.52	2.64	1.77	0.89	2.21	1.33	0.46	0.00	0.00	0.00	0.00	0.00	
500.01	540.00	10.92	6.98	6.11	5.23	4.36	3.48	2.61	1.73	3.05	2.17	1.30	0.42	0.00	0.00	0.00	0.00	
540.01	580.00	12.29	8.35	7.48	6.60	5.73	4.85	3.98	3.10	3.89	3.01	2.14	1.26	0.10	0.00	0.00	0.00	
580.01	620.00	13.67	9.73	8.86	7.98	7.11	6.23	5.36	4.48	4.73	3.85	2.98	2.10	0.94	0.00	0.00	0.00	
620.01	660.00	15.05	11.11	10.24	9.36	8.49	7.61	6.74	5.86	5.57	4.69	3.82	2.94	1.78	0.35	0.00	0.00	
660.01	700.00	16.43	12.49	11.62	10.74	9.87	8.99	8.12	7.24	6.41	5.53	4.66	3.78	2.62	1.19	0.00	0.00	
700.01	740.00	17.81	13.87	13.00	12.12	11.25	10.37	9.50	8.62	7.25	6.37	5.50	4.62	3.46	2.03	0.59	0.00	
740.01	780.00	19.19	15.25	14.38	13.50	12.63	11.75	10.88	10.00	8.09	7.21	6.34	5.46	4.30	2.87	1.43	0.00	
780.01	820.00	20.57	16.63	15.76	14.88	14.01	13.13	12.26	11.38	8.93	8.05	7.18	6.30	5.14	3.71	2.27	0.00	
820.01	860.00	21.95	18.01	17.14	16.26	15.39	14.51	13.64	12.76	9.77	8.89	8.02	7.14	5.98	4.55	3.11	0.00	
860.01	900.00	23.33	19.39	18.52	17.64	16.77	15.89	15.02	14.14	10.61	9.73	8.86	7.98	6.82	5.39	3.95	0.00	
900.01	940.00	24.71	20.77	19.90	19.02	18.15	17.27	16.40	15.52	11.45	10.57	9.70	8.82	7.66	6.23	4.79	0.00	
940.01	980.00	26.09	22.15	21.28	20.40	19.53	18.65	17.78	16.90	12.29	11.41	10.54	9.66	8.50	7.07	5.63	0.00	
980.01	1,020.00	27.47	23.53	22.66	21.78	20.91	20.03	19.16	18.28	13.13	12.25	11.38	10.50	9.34	7.91	6.47	0.00	
1,020.01	1,060.00	28.85	24.91	24.04	23.16	22.29	21.41	20.54	19.66	13.97	13.09	12.22	11.34	10.18	8.75	7.31	0.00	
1,060.01	1,100.00	30.75	26.81	25.93	25.06	24.18	23.31	22.43	21.56	15.32	14.45	13.57	12.70	11.54	10.10	8.67	0.00	
1,100.01	1,140.00	32.67	28.73	27.85	26.98	26.10	25.23	24.35	23.48	16.70	15.83	14.95	14.08	12.92	11.48	10.05	0.00	
1,140.01	1,180.00	34.59	30.65	29.77	28.90	28.02	27.15	26.27	25.40	18.08	17.21	16.33	15.46	14.30	12.86	11.43	0.00	
1,180.01	1,220.00	36.51	32.57	31.69	30.82	29.94	29.07	28.19	27.32	19.46	18.59	17.71	16.84	15.68	14.24	12.81	0.00	
1,220.01	1,260.00	38.43	34.49	33.61	32.74	31.86	30.99	30.11	29.24	20.84	19.97	19.09	18.22	17.06	15.62	14.19	0.00	
1,260.01	1,300.00	40.35	36.41	35.53	34.66	33.78	32.91	32.03	31.16	22.22	21.35	20.47	19.60	18.44	17.00	15.57	0.00	
1,300.01	1,340.00	42.27	38.33	37.45	36.58	35.70	34.83	33.95	33.08	23.60	22.73	21.85	20.98	19.82	18.38	16.95	0.00	
1,340.01	1,380.00	44.19	40.25	39.37	38.50	37.62	36.75	35.87	35.00	24.98	24.11	23.23	22.36	21.20	19.76	18.33	0.00	
1,380.01	1,420.00	46.11	42.17	41.29	40.42	39.54	38.67	37.79	36.92	26.36	25.49	24.61	23.74	22.58	21.14	19.71	0.00	
1,420.01	1,460.00	48.03	44.09	43.21	42.34	41.46	40.59	39.71	38.84	27.74	26.87	25.99	25.12	23.96	22.52	21.09	0.00	
1,460.01	1,500.00	49.95	46.01	45.13	44.26	43.38	42.51	41.63	40.76	29.12	28.25	27.37	26.50	25.34	23.90	22.47	0.00	
1,500.01	1,540.00	51.87	47.93	47.05	46.18	45.30	44.43	43.55	42.68	30.50	29.63	28.75	27.88	26.72	25.28	23.85	0.00	
1,540.01	1,580.00	53.79	49.85	48.97	48.10	47.22	46.35	45.47	44.60	31.88	31.01	30.13	29.26	28.10	26.66	25.23	0.00	
1,580.01	1,620.00	55.71	51.77	50.89	50.02	49.14	48.27	47.39	46.52	33.26	32.39	31.51	30.64	29.48	28.04	26.61	0.00	
1,620.01	1,660.00	57.63	53.69	52.81	51.94	51.06	50.19	49.31	48.44	34.64	33.77	32.89	32.02	30.86	29.42	27.99	0.00	
1,660.01	1,700.00	59.55	55.61	54.73	53.86	52.98	52.11	51.23	50.36	36.02	35.15	34.27	33.40	32.24	30.80	29.37	0.00	
1,700.01	1,740.00	61.47	57.53	56.65	55.78	54.90	54.03	53.15	52.28	37.40	36.53	35.65	34.78	33.62	32.18	30.75	0.00	
1,740.01	1,780.00	63.39	59.45	58.57	57.70	56.82	55.95	55.07	54.20	38.78	37.91	37.03	36.16	35.00	33.56	32.13	0.00	
1,780.01	1,820.00	65.31	61.37	60.49	59.62	58.74	57.87	56.99	56.12	40.16	39.29	38.41	37.54	36.38	34.94	33.51	0.00	
1,820.01	1,860.00	67.23	63.29	62.41	61.54	60.66	59.79	58.91	58.04	41.54	40.67	39.79	38.92	37.76	36.32	34.89	0.00	
1,860.01	1,900.00	69.15	65.21	64.33	63.46	62.58	61.71	60.83	59.96	42.92	42.05	41.17	40.30	39.14	37.70	36.27	0.00	
1,900.01	1,940.00	71.07	67.13	66.25	65.38	64.50	63.63	62.75	61.88	44.30	43.43	42.55	41.68	40.52	39.08	37.65	0.00	
1,940.01	1,980.00	72.99	69.05	68.17	67.30	66.42	65.55	64.67	63.80	45.68	44.81	43.93	43.06	41.90	40.46	39.03	0.00	
1,980.01	2,020.00	74.91	70.97	70.09	69.22	68.34	67.47	66.59	65.72	47.06	46.19	45.31	44.44	43.28	41.84	40.41	0.00	
2,020.01	2,060.00	76.83	72.89	72.01	71.14	70.26	69.39	68.51	67.64	48.44	47.57	46.69	45.82	44.66	43.22	41.79	0.00	
2,060.01	2,100.00	78.75	74.81	73.93	73.06	72.18	71.31	70.43	69.56	49.82	48.95	48.07	47.20	46.04	44.60	43.17	0.00	
2,100.01	2,140.00	80.67	76.73	75.85	74.98	74.10	73.23	72.35	71.48	51.70	50.82	49.95	49.07	47.92	46.48	45.04	0.00	

Add 4.80% for amounts in excess of \$2,140

Monthly Louisiana Income Tax Withholding Table																
Exemptions:		0	1								2					
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6
Salary Range:																
Min	Max															
0.00	200.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
200.01	280.00	5.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
280.01	360.00	6.72	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
360.01	440.00	8.40	0.53	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
440.01	520.00	10.08	2.21	0.46	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
520.01	600.00	11.76	3.89	2.14	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
600.01	680.00	13.44	5.57	3.82	2.07	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
680.01	760.00	15.12	7.25	5.50	3.75	2.00	0.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
760.01	840.00	16.80	8.93	7.18	5.43	3.68	1.93	0.18	0.00	1.05	0.00	0.00	0.00	0.00	0.00	0.00
840.01	920.00	18.48	10.61	8.86	7.11	5.36	3.61	1.86	0.11	2.73	0.98	0.00	0.00	0.00	0.00	0.00
920.01	1,000.00	20.16	12.29	10.54	8.79	7.04	5.29	3.54	1.79	4.41	2.66	0.91	0.00	0.00	0.00	0.00
1,000.01	1,080.00	21.84	13.97	12.22	10.47	8.72	6.97	5.22	3.47	6.09	4.34	2.59	0.84	0.00	0.00	0.00
1,080.01	1,160.00	24.58	16.70	14.95	13.20	11.45	9.70	7.95	6.20	7.77	6.02	4.27	2.52	0.77	0.00	0.00
1,160.01	1,240.00	27.34	19.46	17.71	15.96	14.21	12.46	10.71	8.96	9.45	7.70	5.95	4.20	2.45	0.70	0.00
1,240.01	1,320.00	30.10	22.22	20.47	18.72	16.97	15.22	13.47	11.72	11.13	9.38	7.63	5.88	4.13	2.38	0.63
1,320.01	1,400.00	32.86	24.98	23.23	21.48	19.73	17.98	16.23	14.48	12.81	11.06	9.31	7.56	5.81	4.06	2.31
1,400.01	1,480.00	35.62	27.74	25.99	24.24	22.49	20.74	18.99	17.24	14.49	12.74	10.99	9.24	7.49	5.74	3.99
1,480.01	1,560.00	38.38	30.50	28.75	27.00	25.25	23.50	21.75	20.00	16.17	14.42	12.67	10.92	9.17	7.42	5.67
1,560.01	1,640.00	41.14	33.26	31.51	29.76	28.01	26.26	24.51	22.76	17.85	16.10	14.35	12.60	10.85	9.10	7.35
1,640.01	1,720.00	43.90	36.02	34.27	32.52	30.77	29.02	27.27	25.52	19.53	17.78	16.03	14.28	12.53	10.78	9.03
1,720.01	1,800.00	46.66	38.78	37.03	35.28	33.53	31.78	30.03	28.28	21.21	19.46	17.71	15.96	14.21	12.46	10.71
1,800.01	1,880.00	49.42	41.54	39.79	38.04	36.29	34.54	32.79	31.04	22.89	21.14	19.39	17.64	15.89	14.14	12.39
1,880.01	1,960.00	52.18	44.30	42.55	40.80	39.05	37.30	35.55	33.80	24.57	22.82	21.07	19.32	17.57	15.82	14.07
1,960.01	2,040.00	54.94	47.06	45.31	43.56	41.81	40.06	38.31	36.56	26.25	24.50	22.75	21.00	19.25	17.50	15.75
2,040.01	2,120.00	57.70	49.82	48.07	46.32	44.57	42.82	41.07	39.32	27.93	26.18	24.43	22.68	20.93	19.18	17.43
2,120.01	2,200.00	61.49	53.62	51.87	50.12	48.37	46.62	44.87	43.12	30.65	28.90	27.15	25.40	23.65	21.90	20.15
2,200.01	2,280.00	65.33	57.46	55.71	53.96	52.21	50.46	48.71	46.96	33.41	31.66	29.91	28.16	26.41	24.66	22.91
2,280.01	2,360.00	69.17	61.30	59.55	57.80	56.05	54.30	52.55	50.80	36.17	34.42	32.67	30.92	29.17	27.42	25.67
2,360.01	2,440.00	73.01	65.14	63.39	61.64	59.89	58.14	56.39	54.64	38.93	37.18	35.43	33.68	31.93	30.18	28.43
2,440.01	2,520.00	76.85	68.98	67.23	65.48	63.73	61.98	60.23	58.48	41.69	39.94	38.19	36.44	34.69	32.94	31.19
2,520.01	2,600.00	80.69	72.82	71.07	69.32	67.57	65.82	64.07	62.32	44.45	42.70	40.95	39.20	37.45	35.70	33.95
2,600.01	2,680.00	84.53	76.66	74.91	73.16	71.41	69.66	67.91	66.16	47.21	45.46	43.71	41.96	40.21	38.46	36.71
2,680.01	2,760.00	88.37	80.50	78.75	77.00	75.25	73.50	71.75	70.00	49.97	48.22	46.47	44.72	42.97	41.22	39.47
2,760.01	2,840.00	92.21	84.34	82.59	80.84	79.09	77.34	75.59	73.84	52.73	50.98	49.23	47.48	45.73	43.98	42.23
2,840.01	2,920.00	96.05	88.18	86.43	84.68	82.93	81.18	79.43	77.68	55.49	53.74	51.99	50.24	48.49	46.74	44.99
2,920.01	3,000.00	99.89	92.02	90.27	88.52	86.77	85.02	83.27	81.52	58.25	56.50	54.75	53.00	51.25	49.50	47.75
3,000.01	3,080.00	103.73	95.86	94.11	92.36	90.61	88.86	87.11	85.36	61.01	59.26	57.51	55.76	54.01	52.26	50.51
3,080.01	3,160.00	107.57	99.70	97.95	96.20	94.45	92.70	90.95	89.20	63.77	62.02	60.27	58.52	56.77	55.02	53.27
3,160.01	3,240.00	111.41	103.54	101.79	100.04	98.29	96.54	94.79	93.04	66.53	64.78	63.03	61.28	59.53	57.78	56.03
3,240.01	3,320.00	115.25	107.38	105.63	103.88	102.13	100.38	98.63	96.88	69.29	67.54	65.79	64.04	62.29	60.54	58.79
3,320.01	3,400.00	119.09	111.22	109.47	107.72	105.97	104.22	102.47	100.72	72.05	70.30	68.55	66.80	65.05	63.30	61.55
3,400.01	3,480.00	122.93	115.06	113.31	111.56	109.81	108.06	106.31	104.56	74.81	73.06	71.31	69.56	67.81	66.06	64.31
3,480.01	3,560.00	126.77	118.90	117.15	115.40	113.65	111.90	110.15	108.40	77.57	75.82	74.07	72.32	70.57	68.82	67.07
3,560.01	3,640.00	130.61	122.74	120.99	119.24	117.49	115.74	113.99	112.24	80.33	78.58	76.83	75.08	73.33	71.58	69.83
3,640.01	3,720.00	134.45	126.58	124.83	123.08	121.33	119.58	117.83	116.08	83.09	81.34	79.59	77.84	76.09	74.34	72.59
3,720.01	3,800.00	138.29	130.42	128.67	126.92	125.17	123.42	121.67	119.92	85.85	84.10	82.35	80.60	78.85	77.10	75.35
3,800.01	3,880.00	142.13	134.26	132.51	130.76	129.01	127.26	125.51	123.76	88.61	86.86	85.11	83.36	81.61	79.86	78.11
3,880.01	3,960.00	145.97	138.10	136.35	134.60	132.85	131.10	129.35	127.60	91.37	89.62	87.87	86.12	84.37	82.62	80.87
3,960.01	4,040.00	149.81	141.94	140.19	138.44	136.69	134.94	133.19	131.44	94.13	92.38	90.63	88.88	87.13	85.38	83.63
4,040.01	4,120.00	153.65	145.78	144.03	142.28	140.53	138.78	137.03	135.28	96.89	95.14	93.39	91.64	89.89	88.14	86.39
4,120.01	4,200.00	157.49	149.62	147.87	146.12	144.37	142.62	140.87	139.12	99.65	97.90	96.15	94.40	92.65	90.90	89.15
4,200.01	4,280.00	161.33	153.46	151.71	149.96	148.21	146.46	144.71	142.96	103.40	101.65	99.90	98.15	96.40	94.65	92.90

Add 4.80% for amounts in excess of \$4,280

Annual Louisiana Income Tax Withholding Table																
Exemptions:		0	1								2					
Dependents:		0	0	1	2	3	4	5	6	0	1	2	3	4	5	6
Salary Range:																
Min	Max															
0.00	2,500.00	2.1%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2,500.01	2,900.00	56.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2,900.01	3,300.00	65.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3,300.01	3,700.00	73.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3,700.01	4,100.00	81.90	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4,100.01	4,500.00	90.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4,500.01	4,900.00	98.70	4.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

4,900.01	5,300.00	107.10	12.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5,300.01	5,700.00	115.50	21.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5,700.01	6,100.00	123.90	29.40	8.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6,100.01	6,500.00	132.30	37.80	16.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6,500.01	6,900.00	140.70	46.20	25.20	4.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6,900.01	7,300.00	149.10	54.60	33.60	12.60	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7,300.01	7,700.00	157.50	63.00	42.00	21.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7,700.01	8,100.00	165.90	71.40	50.40	29.40	8.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8,100.01	8,500.00	174.30	79.80	58.80	37.80	16.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8,500.01	8,900.00	182.70	88.20	67.20	46.20	25.20	4.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8,900.01	9,300.00	191.10	96.60	75.60	54.60	33.60	12.60	0.00	0.00	2.10	0.00	0.00	0.00	0.00	0.00	0.00
9,300.01	9,700.00	199.50	105.00	84.00	63.00	42.00	21.00	0.00	0.00	10.50	0.00	0.00	0.00	0.00	0.00	0.00
9,700.01	10,100.00	207.90	113.40	92.40	71.40	50.40	29.40	8.40	0.00	18.90	0.00	0.00	0.00	0.00	0.00	0.00
10,100.01	10,500.00	216.30	121.80	100.80	79.80	58.80	37.80	16.80	0.00	27.30	6.30	0.00	0.00	0.00	0.00	0.00
10,500.01	10,900.00	224.70	130.20	109.20	88.20	67.20	46.20	25.20	4.20	35.70	14.70	0.00	0.00	0.00	0.00	0.00
10,900.01	11,300.00	233.10	138.60	117.60	96.60	75.60	54.60	33.60	12.60	44.10	23.10	2.10	0.00	0.00	0.00	0.00
11,300.01	11,700.00	241.50	147.00	126.00	105.00	84.00	63.00	42.00	21.00	52.50	31.50	10.50	0.00	0.00	0.00	0.00
11,700.01	12,100.00	249.90	155.40	134.40	113.40	92.40	71.40	50.40	29.40	60.90	39.90	18.90	0.00	0.00	0.00	0.00
12,100.01	12,500.00	258.30	163.80	142.80	121.80	100.80	79.80	58.80	37.80	69.30	48.30	27.30	6.30	0.00	0.00	0.00
12,500.01	12,900.00	266.70	172.20	151.20	130.20	109.20	88.20	67.20	46.20	77.70	56.70	35.70	14.70	0.00	0.00	0.00
12,900.01	13,300.00	275.10	179.80	158.80	137.80	116.80	95.20	74.20	53.20	86.10	65.10	44.10	23.10	2.10	0.00	0.00
13,300.01	13,700.00	283.50	187.40	166.40	144.80	124.80	102.80	81.20	60.20	94.50	73.50	52.50	31.50	10.50	0.00	0.00
13,700.01	14,100.00	291.90	195.00	174.00	151.40	131.40	109.40	88.40	67.40	102.90	81.90	60.90	39.90	18.90	0.00	0.00
14,100.01	14,500.00	300.30	202.60	181.00	158.00	138.00	116.00	95.00	75.00	111.30	90.30	69.30	48.30	27.30	6.30	0.00
14,500.01	14,900.00	308.70	210.20	188.60	164.60	144.60	122.60	102.60	82.60	119.70	98.70	77.70	56.70	35.70	14.70	0.00
14,900.01	15,300.00	317.10	217.80	196.20	171.20	151.20	129.20	109.20	89.20	128.10	107.10	86.10	65.10	44.10	23.10	2.10
15,300.01	15,700.00	325.50	225.40	198.80	177.80	157.80	135.80	115.80	95.80	136.50	115.50	94.50	73.50	52.50	31.50	10.50
15,700.01	16,100.00	333.90	233.00	206.40	184.40	164.40	142.40	122.40	102.40	144.90	123.90	102.90	81.90	60.90	39.90	18.90
16,100.01	16,500.00	342.30	240.60	213.00	191.00	171.00	149.00	129.00	109.00	153.30	132.30	111.30	90.30	69.30	48.30	27.30
16,500.01	16,900.00	350.70	248.20	219.60	197.60	177.60	155.60	135.60	115.60	161.70	140.70	119.70	98.70	77.70	56.70	35.70
16,900.01	17,300.00	359.10	255.80	226.20	204.20	184.20	162.20	142.20	122.20	170.10	149.10	128.10	107.10	86.10	65.10	44.10
17,300.01	17,700.00	367.50	263.40	231.80	210.80	190.80	168.80	148.80	128.80	178.50	157.50	136.50	115.50	94.50	73.50	52.50
17,700.01	18,100.00	375.90	271.00	237.40	217.40	197.40	175.40	155.40	135.40	186.90	165.90	144.90	123.90	102.90	81.90	60.90
18,100.01	18,500.00	384.30	278.60	243.00	224.00	204.00	182.00	162.00	142.00	195.30	174.30	153.30	132.30	111.30	90.30	69.30
18,500.01	18,900.00	392.70	286.20	249.60	230.60	210.60	188.60	168.60	148.60	203.70	182.70	161.70	140.70	119.70	98.70	77.70
18,900.01	19,300.00	401.10	293.80	256.20	237.20	217.20	195.20	175.20	155.20	212.10	191.10	170.10	149.10	128.10	107.10	86.10
19,300.01	19,700.00	409.50	301.40	263.80	243.80	223.80	201.80	181.80	161.80	220.50	199.50	178.50	157.50	136.50	115.50	94.50
19,700.01	20,100.00	417.90	309.00	270.40	250.40	230.40	208.40	188.40	168.40	228.90	207.90	186.90	165.90	144.90	123.90	102.90
20,100.01	20,500.00	426.30	316.60	277.00	257.00	237.00	215.00	195.00	175.00	237.30	216.30	195.30	174.30	153.30	132.30	111.30
20,500.01	20,900.00	434.70	324.20	283.60	263.60	243.60	221.60	201.60	181.60	245.70	224.70	203.70	182.70	161.70	140.70	119.70
20,900.01	21,300.00	443.10	331.80	290.20	270.20	250.20	228.20	208.20	188.20	254.10	233.10	212.10	191.10	170.10	149.10	128.10
21,300.01	21,700.00	451.50	339.40	296.80	276.80	256.80	234.80	214.80	194.80	262.50	241.50	220.50	199.50	178.50	157.50	136.50
21,700.01	22,100.00	459.90	347.00	303.40	283.40	263.40	241.40	221.40	201.40	270.90	249.90	228.90	207.90	186.90	165.90	144.90
22,100.01	22,500.00	468.30	354.60	310.00	290.00	270.00	248.00	228.00	208.00	279.30	258.30	237.30	216.30	195.30	174.30	153.30
22,500.01	22,900.00	476.70	362.20	316.60	296.60	276.60	254.60	234.60	214.60	287.70	266.70	245.70	224.70	203.70	182.70	161.70
22,900.01	23,300.00	485.10	369.80	323.20	303.20	283.20	261.20	241.20	221.20	296.10	275.10	254.10	233.10	212.10	191.10	170.10
23,300.01	23,700.00	493.50	377.40	329.80	309.80	289.80	267.80	247.80	227.80	304.50	283.50	262.50	241.50	220.50	199.50	178.50
23,700.01	24,100.00	501.90	385.00	336.40	316.40	296.40	274.40	254.40	234.40	312.90	291.90	270.90	249.90	228.90	207.90	186.90
24,100.01	24,500.00	510.30	392.60	343.00	323.00	303.00	281.00	261.00	241.00	321.30	300.30	279.30	258.30	237.30	216.30	195.30
24,500.01	24,900.00	518.70	400.20	349.60	329.60	309.60	287.60	267.60	247.60	329.70	308.70	287.70	266.70	245.70	224.70	203.70
24,900.01	25,300.00	527.10	407.80	356.20	336.20	316.20	294.20	274.20	254.20	338.10	317.10	296.10	275.10	254.10	233.10	212.10
25,300.01	25,700.00	535.50	415.40	362.80	342.80	322.80	300.80	280.80	260.80	346.50	325.50	304.50	283.50	262.50	241.50	220.50
25,700.01	26,100.00	543.90	423.00	369.40	349.40	329.40	307.40	287.40	267.40	354.90	333.90	312.90	291.90	270.90	249.90	228.90
26,100.01	26,500.00	552.30	430.60	376.00	356.00	336.00	314.00	294.00	274.00	363.30	342.30	321.30	300.30	279.30	258.30	237.30
26,500.01	26,900.00	560.70	438.20	382.60	362.60	342.60	320.60	300.60	280.60	371.70	350.70	329.70	308.70	287.70	266.70	245.70
26,900.01	27,300.00	569.10	445.80	389.20	369.20	349.20	327.20	307.20	287.20	380.10	358.10	337.10	316.10	295.10	274.10	253.10
27,300.01	27,700.00	577.50	453.40	395.80	375.80	355.80	333.80	313.80	293.80	388.50	366.50	345.50	324.50	303.50	282.50	261.50
27,700.01	28,100.00	585.90	461.00	402.40	382.40	362.40	340.40	320.40	300.40	396.90	374.90	353.90	332.90	311.90	290.90	269.90
28,100.01	28,500.00	594.30	468.60	409.00	389.00	369.00	347.00	327.00	307.00	405.30	382.30	361.30	340.30	319.30	298.30	277.30
28,500.01	28,900.00	602.70	476.20	415.60	395.60	375.60	353.60	333.60	313.60	413.70	390.70	369.70	348.70	327.70	306.70	285.70
28,900.01	29,300.00	611.10	483.80	422.20	402.20	382.20	360.20	340.20	320.20	422.10	399.10	378.10	357.10	336.10	315.10	294.10
29,300.01	29,700.00	619.50	491.40	428.80	408.80	388.80	366.80	346.80	326.80	430.50	407.50	386.50	365.50	344.50	323.50	303.50
29,700.01	30,100.00	627.90	499.00	435.40	415.40	395.40	373.40	353.40	333.40	438.90	415.90	394.90	373.90	352.90	332.90	312.90
30,100.01	30,500.00	636.30	506.60	442.00	422.00	402.00	380.00	360.00	340.00	447.30	423.30	402.30	381.30	360.30	341.30	322.30
30,500.01	30,900.00	644.70	514.20	448.60	428.60	408.60	386.60	366.60	346.60	455.70	430.70	408.70	387.70	366.70	347.70	328.70
30,900.01	31,300															

33,700.01	34,100.00	1,120.95	1,026.45	1,005.45	984.45	963.45	942.45	921.45	900.45	643.05	622.05	601.05	580.05	559.05	538.05	517.05
34,100.01	34,500.00	1,140.15	1,045.65	1,024.65	1,003.65	982.65	961.65	940.65	919.65	656.85	635.85	614.85	593.85	572.85	551.85	530.85
34,500.01	34,900.00	1,159.35	1,064.85	1,043.85	1,022.85	1,001.85	980.85	959.85	938.85	670.65	649.65	628.65	607.65	586.65	565.65	544.65
34,900.01	35,300.00	1,178.55	1,084.05	1,063.05	1,042.05	1,021.05	1,000.05	979.05	958.05	684.45	663.45	642.45	621.45	600.45	579.45	558.45
35,300.01	35,700.00	1,197.75	1,103.25	1,082.25	1,061.25	1,040.25	1,019.25	998.25	977.25	698.25	677.25	656.25	635.25	614.25	593.25	572.25
35,700.01	36,100.00	1,216.95	1,122.45	1,101.45	1,080.45	1,059.45	1,038.45	1,017.45	996.45	712.05	691.05	670.05	649.05	628.05	607.05	586.05
36,100.01	36,500.00	1,236.15	1,141.65	1,120.65	1,099.65	1,078.65	1,057.65	1,036.65	1,015.65	725.85	704.85	683.85	662.85	641.85	620.85	599.85
36,500.01	36,900.00	1,255.35	1,160.85	1,139.85	1,118.85	1,097.85	1,076.85	1,055.85	1,034.85	739.65	718.65	697.65	676.65	655.65	634.65	613.65
36,900.01	37,300.00	1,274.55	1,180.05	1,159.05	1,138.05	1,117.05	1,096.05	1,075.05	1,054.05	753.45	732.45	711.45	690.45	669.45	648.45	627.45
37,300.01	37,700.00	1,293.75	1,199.25	1,178.25	1,157.25	1,136.25	1,115.25	1,094.25	1,073.25	767.25	746.25	725.25	704.25	683.25	662.25	641.25
37,700.01	38,100.00	1,312.95	1,218.45	1,197.45	1,176.45	1,155.45	1,134.45	1,113.45	1,092.45	781.05	760.05	739.05	718.05	697.05	676.05	655.05
38,100.01	38,500.00	1,332.15	1,237.65	1,216.65	1,195.65	1,174.65	1,153.65	1,132.65	1,111.65	794.85	773.85	752.85	731.85	710.85	689.85	668.85
38,500.01	38,900.00	1,351.35	1,256.85	1,235.85	1,214.85	1,193.85	1,172.85	1,151.85	1,130.85	808.65	787.65	766.65	745.65	724.65	703.65	682.65
38,900.01	39,300.00	1,370.55	1,276.05	1,255.05	1,234.05	1,213.05	1,192.05	1,171.05	1,150.05	822.45	801.45	780.45	759.45	738.45	717.45	696.45
39,300.01	39,700.00	1,389.75	1,295.25	1,274.25	1,253.25	1,232.25	1,211.25	1,190.25	1,169.25	836.25	815.25	794.25	773.25	752.25	731.25	710.25
39,700.01	40,100.00	1,408.95	1,314.45	1,293.45	1,272.45	1,251.45	1,230.45	1,209.45	1,188.45	850.05	829.05	808.05	787.05	766.05	745.05	724.05
40,100.01	40,500.00	1,428.15	1,333.65	1,312.65	1,291.65	1,270.65	1,249.65	1,228.65	1,207.65	863.85	842.85	821.85	800.85	779.85	758.85	737.85
40,500.01	40,900.00	1,447.35	1,352.85	1,331.85	1,310.85	1,289.85	1,268.85	1,247.85	1,226.85	877.65	856.65	835.65	814.65	793.65	772.65	751.65
40,900.01	41,300.00	1,466.55	1,372.05	1,351.05	1,330.05	1,309.05	1,288.05	1,267.05	1,246.05	891.45	870.45	849.45	828.45	807.45	786.45	765.45
41,300.01	41,700.00	1,485.75	1,391.25	1,370.25	1,349.25	1,328.25	1,307.25	1,286.25	1,265.25	905.25	884.25	863.25	842.25	821.25	800.25	779.25
41,700.01	42,100.00	1,504.95	1,410.45	1,389.45	1,368.45	1,347.45	1,326.45	1,305.45	1,284.45	919.05	898.05	877.05	856.05	835.05	814.05	793.05
42,100.01	42,500.00	1,524.15	1,429.65	1,408.65	1,387.65	1,366.65	1,345.65	1,324.65	1,303.65	932.85	911.85	890.85	869.85	848.85	827.85	806.85
42,500.01	42,900.00	1,543.35	1,448.85	1,427.85	1,406.85	1,385.85	1,364.85	1,343.85	1,322.85	946.65	925.65	904.65	883.65	862.65	841.65	820.65
42,900.01	43,300.00	1,562.55	1,468.05	1,447.05	1,426.05	1,405.05	1,384.05	1,363.05	1,342.05	960.45	939.45	918.45	897.45	876.45	855.45	834.45
43,300.01	43,700.00	1,581.75	1,487.25	1,466.25	1,445.25	1,424.25	1,403.25	1,382.25	1,361.25	974.25	953.25	932.25	911.25	890.25	869.25	848.25
43,700.01	44,100.00	1,600.95	1,506.45	1,485.45	1,464.45	1,443.45	1,422.45	1,401.45	1,380.45	988.05	967.05	946.05	925.05	904.05	883.05	862.05
44,100.01	44,500.00	1,620.15	1,525.65	1,504.65	1,483.65	1,462.65	1,441.65	1,420.65	1,399.65	1,001.85	980.85	959.85	938.85	917.85	896.85	875.85
44,500.01	44,900.00	1,639.35	1,544.85	1,523.85	1,502.85	1,481.85	1,460.85	1,439.85	1,418.85	1,015.65	994.65	973.65	952.65	931.65	910.65	889.65
44,900.01	45,300.00	1,658.55	1,564.05	1,543.05	1,522.05	1,501.05	1,480.05	1,459.05	1,438.05	1,029.45	1,008.45	987.45	966.45	945.45	924.45	903.45
45,300.01	45,700.00	1,677.75	1,583.25	1,562.25	1,541.25	1,520.25	1,499.25	1,478.25	1,457.25	1,043.25	1,022.25	1,001.25	980.25	959.25	938.25	917.25
45,700.01	46,100.00	1,696.95	1,602.45	1,581.45	1,560.45	1,539.45	1,518.45	1,497.45	1,476.45	1,057.05	1,036.05	1,015.05	994.05	973.05	952.05	931.05
46,100.01	46,500.00	1,716.15	1,621.65	1,600.65	1,579.65	1,558.65	1,537.65	1,516.65	1,495.65	1,070.85	1,049.85	1,028.85	1,007.85	986.85	965.85	944.85
46,500.01	46,900.00	1,735.35	1,640.85	1,619.85	1,598.85	1,577.85	1,556.85	1,535.85	1,514.85	1,084.65	1,063.65	1,042.65	1,021.65	1,000.65	979.65	958.65
46,900.01	47,300.00	1,754.55	1,660.05	1,639.05	1,618.05	1,597.05	1,576.05	1,555.05	1,534.05	1,098.45	1,077.45	1,056.45	1,035.45	1,014.45	993.45	972.45
47,300.01	47,700.00	1,773.75	1,679.25	1,658.25	1,637.25	1,616.25	1,595.25	1,574.25	1,553.25	1,112.25	1,091.25	1,070.25	1,049.25	1,028.25	1,007.25	986.25
47,700.01	48,100.00	1,792.95	1,698.45	1,677.45	1,656.45	1,635.45	1,614.45	1,593.45	1,572.45	1,126.05	1,105.05	1,084.05	1,063.05	1,042.05	1,021.05	1,000.05
48,100.01	48,500.00	1,812.15	1,717.65	1,696.65	1,675.65	1,654.65	1,633.65	1,612.65	1,591.65	1,139.85	1,118.85	1,097.85	1,076.85	1,055.85	1,034.85	1,013.85
48,500.01	48,900.00	1,831.35	1,736.85	1,715.85	1,694.85	1,673.85	1,652.85	1,631.85	1,610.85	1,153.65	1,132.65	1,111.65	1,090.65	1,069.65	1,048.65	1,027.65
48,900.01	49,300.00	1,850.55	1,756.05	1,735.05	1,714.05	1,693.05	1,672.05	1,651.05	1,630.05	1,167.45	1,146.45	1,125.45	1,104.45	1,083.45	1,062.45	1,041.45
49,300.01	49,700.00	1,869.75	1,775.25	1,754.25	1,733.25	1,712.25	1,691.25	1,670.25	1,649.25	1,181.25	1,160.25	1,139.25	1,118.25	1,097.25	1,076.25	1,055.25
49,700.01	50,100.00	1,888.95	1,794.45	1,773.45	1,752.45	1,731.45	1,710.45	1,689.45	1,668.45	1,195.05	1,174.05	1,153.05	1,132.05	1,111.05	1,090.05	1,069.05
50,100.01	50,500.00	1,908.15	1,813.65	1,792.65	1,771.65	1,750.65	1,729.65	1,708.65	1,687.65	1,212.90	1,191.90	1,170.90	1,149.90	1,128.90	1,107.90	1,086.90
Add 4.80% for amounts in excess of \$50,500																

D. Income tax Withholding Formula

1. The formula used to compute the tax withholding on the withholding tax tables in Subsection C computes the tax on the total wage amount and then subtracts the tax effect of the personal exemptions and dependents.

2. Withholding formula used to compute the withholding tables is as follows:

W = Withholding tax.
 S = Salary per period.
 X = Number of personal exemptions claimed for withholding;
 X may be 0, 1, or 2.
 Y = Number of dependency credits claimed for withholding;
 Y may be 0 or greater.
 M = Income Brackets for tax rate change.
 If X = 0 or 1, then M₁ = \$12,500, and M₂ = \$25,000
 If X = 2, then M₁ = \$25,000, and M₂ = \$50,000
 N = Number of pay-periods per year (for example, weekly = 52 or monthly =12).

If S > 0
 Then A = (S * .021)
 Else A = 0

If S > (M₁ / N)
 Then B = .0135 [S - (M₁ / N)]
 Else B = 0

If S > (M₂ / N)
 Then C = .0135 [S - (M₂ / N)]
 Else C = 0

D = .021 [(X * \$4,500) + (Y * \$1,000)] / N

If [(X * \$4,500) + (Y * \$1,000)] > M₁
 Then E = .0135 [(X * \$4,500) + (Y * \$1,000) - M₁] / N

If (A + B + C) - (D + E) > 0
 Then W = (A + B + C) - (D + E)
 Else W = 0

3. In place of the withholding tables in Subsection C, employers may use the formula described in Paragraph D.2 or an alternative formula if it produces equivalent results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112, R.S. 47:295 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings but the adjusting of the income tax brackets and rates could adversely affect the family budget.

For lower income families the effect might not be adverse with the expansion of the 2 percent bracket. For higher income families the effect from bracket compression at the higher rates would be adverse.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs, by mail to P.O. Box 44098, Baton Rouge, LA, 70804-4098, or by fax to 225-219-2759. All comments must be received no later than 4:30 p.m., October 28, 2002. A public hearing will be held on Tuesday October 29, 2002 at 9 a.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Income Tax Withholding Tables**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed regulation establishes the individual income tax withholding tables based on the new income tax rates provided by Act 51 of the 2002 Regular Session. The Act imposes the individual income tax on joint returns as follows: 2 percent of the first \$25,000, 4 percent of income from \$25,000 to \$50,000, and 6 percent of income over \$50,000. For single returns the bracket thresholds are one-half those of joint returns. The state deduction for excess federal itemized deductions is repealed.

Implementation of this proposed regulation will result in less than \$100,000 of additional costs associated with system reprogramming, testing, and form adjustment to incorporate the changes.

There will be no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 51 eliminates the excess federal itemized deduction and compresses the brackets, creating an increase to state individual income tax revenue. Some revenue is raised in FY 06-2003 because it is expected that taxpayers will adjust withholdings in the first half of the 2003 calendar year as employers receive the new withholding tables. The revenue gains tend to increase over time because the growth rate of income taxes gained typically exceeds the growth rate of sales taxes forgone. The income tax gains over the next several years are \$55 million for FY 02-2003, \$244 million for FY 03- 2004 and \$263 million for FY 04-2005 according to the Legislative Fiscal Office

The new tables will be effective on January 1, 2003, only if the constitution is amended as proposed in Act 88.

There will be no impact on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation directs employers required to deduct and withhold income tax pursuant to R.S. 47:112, to deduct and withhold the tax in an amount determined in accordance with the tables provided, the formula provided in the regulation, or a formula that produces equivalent amounts. The impact on costs for these employers should be negligible since they are currently required to withhold tax on employees.

The effect on individuals from this proposed regulation is for a greater portion of their income tax liabilities to be satisfied through the withholding process than is currently experienced.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment. The regulation affects the process by which additional income tax liabilities are collected, and does not itself generate those additional liabilities.

Cynthia Bridges
Secretary
0209#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

FITAP/KCSPC Adverse Action and Reporting Requirements
(LAC 67:III.1209, 5307, and 5347)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Chapter 12, Family Independence Temporary Assistance Program (FITAP) and Chapter 53, Kinship Care Subsidy Program (KCSP).

Pursuant to the authority granted to the Department by the Temporary Assistance for Needy Families Block Grant, the agency proposes to amend §§1209 and 5307 to align FITAP and KCSP regulations for taking immediate action in reducing or terminating client benefits with Food Stamp Program regulations. The agency currently allows for certain circumstances under which immediate action can be taken to

reduce or terminate FITAP or KCSP benefits without providing a 13-day advance notice. This rule proposes three additional circumstances under which immediate adverse action may be taken. The amendment will align FITAP, KCSP, and Food Stamp Program policy thereby making administration of the policy less complicated and less prone to error.

The agency adopted reporting requirements for FITAP in April 2002, because this condition of eligibility, while required of participants, was not stated in the administrative code. In keeping with the effort to simplify the administration of OFS programs by aligning the regulations and policies of the various programs, the agency proposes to adopt §5347 to include KCSP reporting requirements as a condition of eligibility. Adoption of the requirement in KCSP will further align the program with FITAP and Food Stamp Program regulations that require the household to report only certain increases in household members' income.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. - 14. ...

15. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

16. the agency receives a report of change through the semi-annual reporting process that would reduce or terminate benefits;

17. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 28:

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5307. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. - 10. ...

11. the agency receives a written report signed by the head of household or other responsible household member

which provides sufficient information for the agency to determine the client's ineligibility;

12. the agency receives a report of change through the semi-annual reporting process that would reduce or terminate benefits;

13. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), LR 28:

§5347. Reporting Changes

A. A KCSP household shall report any change that affects eligibility. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the KCSP household is included in a food stamp semi-annual reporting household. The KCSP household is then subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Interested persons may submit written comments on the proposed rule by October 29, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 29, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

This Rule will generally have no impact on the functioning or stability of the family or on the authority and rights of parents. It may have a negative impact on the family budget by reducing or terminating benefits immediately when certain circumstance apply.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: FITAP/KCSPC Adverse Action and Reporting Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The amendments to Sections 1209 and 5307 and the additional reporting requirements for Kinship Care Subsidy Program (KCSP) households will result in implementation costs to the agency of \$3,030 for FY 02/03. This one-time expenditure will cover the cost of publishing the Rule and printing policy and forms. The cost is routinely covered in the agency's annual budget and can be met with monies from

Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no resulting costs or economic benefits to any persons or non-governmental groups secondary to this proposed Rule. Although reporting changes may affect a KCSP household's eligibility, the amendment does not represent a change, as this has always been a requirement of the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no impact on competition or employment.

Ann S. Williams
Assistant Secretary
0209#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

TANF Initiatives CDiversion Assistance Program (LAC 67:III.Chapter 56)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, and pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 15, Chapter 56, Diversion Assistance Program (DAP) as part of the Temporary Assistance For Needy Families (TANF) Initiatives. The agency will implement the Diversion Assistance Program to provide a one-time, lump sum cash payment for eligible families with dependent children who have a recent connection with the workforce, and are unemployed or facing the possibility of unemployment, due to a crisis or barrier to employment which may be overcome through the receipt of Diversion Assistance.

The program was effected July 1, 2002, by a Declaration of Emergency which was published in the July issue of the *Louisiana Register*.

Title 67 SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 56. Diversion Assistance Program (DAP)

§5601. General Authority

A. The Diversion Assistance Program (DAP) is established in accordance with state and federal laws effective July 1, 2002, to help prevent the dependence of needy families on government benefits by providing cash assistance to low-income families in order to promote job retention and work. Applications will be accepted and eligible households certified based upon the availability of funding.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5603. Application Date

A. All individuals applying for DAP shall file a written and signed application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5605. Standard Filing Unit

A. The mandatory filing unit includes the dependent child, the dependent child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. A dependent child must be under 19 years of age. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients, FITAP recipients, and children receiving Kinship Care Subsidy Payments may not be included in the filing unit.

B. All persons who live in the same home and are eligible for inclusion in a DAP assistance unit as specified in §5605.A., must be included in the same certification. A separate DAP assistance unit is necessary if unrelated families living together experience an eligible crisis.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5607. Application Time Limit

A. The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The payment shall be issued or the applicant shall be notified that he has been found ineligible for a payment by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5609. Certification Period and Payment Amounts

A. Families shall receive Diversion Assistance only once within a 12-month period with a lifetime limit of two payments.

B. The DAP payment amount shall be equal to four times the Family Independence Temporary Assistance Program (FITAP) flat grant amount applicable to the household's size as specified in LAC 67:III.1229.D

C. Adults in the assistance unit will be ineligible for FITAP benefits for four months from the effective date of certification for DAP unless certain, severe circumstances occur during that four-month period. These include but are not limited to:

1. loss of job;
2. natural disaster;

3. incapacity or disability of the adult(s); or
4. domestic violence.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5611. Domestic Violence

A. The DAP household is subject to regulations governing domestic violence issues in accordance with LAC 67:III.1213.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subchapter B. Conditions of Eligibility

§5613. Citizenship

A. Citizenship requirements outlined in LAC 67:III.1223. must be met for each member included in the DAP payment.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5615. Enumeration

A. Each applicant for DAP is required to furnish a social security number or to apply for a social security number if such a number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5617. Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives and these may be either biological or adoptive relatives:

1. grandfather or grandmother (extends to great-great-great);
2. brother or sister (including half-brother and half-sister);
3. uncle or aunt (extends to great-great);
4. first cousin (including first cousin once removed);
5. nephew or niece (extends to great-great);
6. stepfather or stepmother;
7. stepbrother or stepsister.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply:

1. the minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;
2. no living parent or legal guardian allows the minor parent to live in his/her home;

3. the minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for DAP;

4. the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;

5. there is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

C. Essential persons are individuals who may be included in the DAP payment and are defined as follows:

1. a person providing child care which enables the qualified relative to work full-time outside the home;

2. a person providing full-time care for an incapacitated family member living in the home;

3. a person providing child care that enables the qualified relative to receive full-time training;

4. a person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time;

5. a person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another FITAP work program; or

6. children not within the degree of relationship to be DAP eligible who live in the home and who meet all other DAP requirements.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5619. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;

17. job training income that is not earned;
18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Supplemental Security Income;
21. Wartime Relocation of Civilians Payments;
22. Developmental Disability Payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. Radiation Exposure Compensation Payments;
26. payment to victims of Nazi persecution;
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court-ordered-support payments;
28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime; or
29. post-FITAP payments.

B. Income Eligibility Standards

1. The income eligibility standards for DAP shall be based on gross income with no income disregards.

a. Gross income shall be 130 percent of the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 states and the District of Columbia.

b. The income eligibility limits, as described in this Paragraph, are revised annually, to reflect OMB's annual adjustment to the nonfarm poverty guidelines for the 48 states and the District of Columbia, for Alaska, and for Hawaii.

C. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except as follows in §5619.C.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence Exception. If an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special Rule for Battered Spouse and Child. If an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §5619.C.1. shall not apply during a 12-month period. After a 12-month period, the batterer's income and resources shall

not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming Rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A.

D. Income of Alien Parent

1. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5621. Residency

A. DAP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5623. Resources

A. The DAP household is subject to regulations governing FITAP resources in accordance with LAC 67:III.1235.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5625. Work Requirements

A. At least one adult member of the income unit must have worked for pay at least 40 hours or earned the equivalent of 40 times the federal minimum wage during any 30-day period within the three months preceding the date of application.

B. Adult members of the income unit shall register for work with the Louisiana Department of Labor Job Center, unless receiving unemployment compensation benefits, and provide verification of registration. An exemption from work registration may be allowed if there are bonafide reasons or hardships which would negate any possible benefit of registration. These can include but are not limited to:

1. disability of an adult member;
2. the adult member is needed to provide care for a disabled household member;
3. certain domestic violence situations; or
4. transportation problems.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5627. Job Loss Factors

A. A DAP payment may be made to a family with dependent children who is experiencing an employment-related crisis. An eligible crisis is a job loss or barrier to employment due to a significant, out-of-the-ordinary expense that could be paid with a one-time cash benefit. The causative factor leading to the crisis and necessary

expenditure must be verified and can include but is not limited to:

1. loss or lack of transportation;
2. loss or lack of tools necessary for employment;
3. eviction, threat of eviction, or some other housing emergency;
4. a need for job skills training certification or licensing;
5. loss of clothing through fire, flood, or theft, or loss or lack of appropriate work attire;
6. escape from domestic violence; or
7. serious injury of the individual or dependent child.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5629. Fleeing Felons and Probation/Parole Violators

A. DAP household shall be subject to regulations governing fleeing felons and probation/parole violators in accordance with LAC 67:III.1251.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5631. Strikers

A. DAP payments cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the household is participating in a strike, his or her needs cannot be considered in computing the DAP payment.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231, and Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Implementation of this rule will have a positive impact on the stability of a needy family by aiding the participant in averting a job loss or securing employment.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The one-time, lump sum DAP payment will have little effect on the family budget. However, if the payment accomplishes the intended goal, that is, to prevent the loss of an existing job or to secure another job, then the program will have a positive impact on the family earnings and subsequent budget.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of the children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this program is strictly an agency function.

All interested persons may submit written comments through October 29, 2002, to Ann S. Williamson, Assistant

Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 29, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: TANF Initiatives C Diversion Assistance Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost for implementing the Diversion Assistance Program is \$1,000,000 for FY 02/03. Included in this cost are payments to eligible families as well as the cost of publishing the Rule and printing policy changes, forms, and training materials. This involves: printing a 55-page policy and forms revision at a cost of \$735; printing training manuals at a cost of \$1,215; printing an informational brochure at a cost of \$3,973; and \$600 for the cost of publishing rulemaking resulting in a total cost of \$6,523. Printing and publishing costs are routinely included in the agency's annual budget.

Future expenditures are subject to legislative appropriation.

There are no costs or savings to 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 NONGOVERNMENTAL GROUPS (Summary)

There are no costs to any persons or non-governmental groups.

The amount estimated in Section I represents TANF funds that will be used as payments to families with dependent children who experience an employment-related crisis. The one-time, cash benefit will be used to pay for that significant, out-of-the-ordinary expense that is creating a barrier to employment, job loss, or threat of job loss. The DAP payment amount is equal to four times the Family Independence Temporary Assistance Program (FITAP) flat grant amount applicable to the household's size. Families will receive Diversion Assistance only once within a 12-month period with a lifetime limit of two payments. The proposed rule should have a positive impact on the family's income by providing monies to avert a job loss, thereby helping the client maintain employment and earn income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have a positive impact on employment as the program intends to provide clients with a means to avert a job loss or to enter the job market by eliminating barriers to employment.

Gwendolyn P. Hamilton
Secretary
0209#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary

General Policy Governing the Treatment of Existing Significant Trees within the Highway Right-of-Way, Zone of Construction or Operational Influence
(LAC 70:I.Chapter 3)

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 amend Section 717 of Chapter 3 of Title 70 entitled **General Policy Governing Treatment of Existing Significant Trees within the Highway Right-of-Way, Zone of Construction or Operational Influence**, in accordance with R.S. 47:820.6.

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 3. Roadside Vegetation Management

§717. General Policy Governing the Treatment of Existing Significant Trees within the Highway Right-of-Way, Zone of Construction or Operational Influence

A. Purpose. The purpose of this directive is to establish a general policy governing the treatment of significant trees by the Department within the highway right-of-way, zone of construction or operational influence.

B. Definitions

1. *Significant Tree* One of the following: Live Oak, Red Oak, White Oak, Magnolia, or Cypress that is considered aesthetically important, is 18" or greater in diameter at breast height (4' - 6" above the ground), and has a form that separates it from the surrounding vegetation or is considered historic. Significant trees must be in good health and not in a declining condition.

2. *Historic Tree* A tree that stands at a place where an event of historic significance occurred that had local, regional, or national importance. A tree may also be considered historic if it has assumed a legendary stature in the community; is mentioned in literature or documents of historic value; is considered unusual due to size or age; or has landmark status.

C. Design Considerations. The Landscape Architectural Staff and District Roadside Development Coordinators shall be consulted during the scoping and/or environmental phase. The Landscape Architectural staff shall identify significant trees during the scoping and/or environmental phase. The Design Section shall indicate significant trees on the plans and implement a context sensitive design (i.e., preservation, specified limited impact, or special treatment) to accommodate these trees where practical.

D. Construction Considerations. The Project Engineer shall ensure that the contractor's operations are sensitive to the treatment indicated in the plans.

1. Construction considerations may include the following:

- a. temporary fencing to protect trees from construction equipment;
- b. avoidance of root zones;
- c. care of overhanging branches, etc.

2. Significant tree issues arising on construction projects shall be managed by the District Roadside Development Coordinators, who shall seek the guidance of the Landscape Architectural staff when questions arise.

E. Considerations for Utility Companies. Utility operators shall not prune trees identified as significant by the Department. Alternate construction methods, such as changing the alignment, will be required to avoid impacting the significant tree(s). Removal of significant trees may be necessary when electrical utility lines cannot be aligned to avoid removal. Consideration will be given to boring to place utilities under significant Live Oaks or trees of historical significance where all other means of avoiding the trees have failed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:267 - 268 and R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR. 18:204 (February 1991), LR. 26:1674 (August 2000), LR 28:

Family Impact Statement

The proposed adoption of this rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed rule will have no known or foreseeable effect on the stability of the family;
2. the implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;
3. the implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family;
4. the implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget;
5. the implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children;
6. the implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

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 Sherryl J. Tucker, Senior Attorney, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA, 70804-9245, Telephone (225) 237-1359.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: General Policy Governing the Treatment
of Existing Significant Trees within the Highway Right-
of-Way, Zone of Construction or Operational Influence**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed Rule reflects clarification of the departmental policy concerning the treatment of significant trees within highway right-of-way by clearly defining "significant tree" and "historic tree" in order that the policy will be consistent throughout the state. The department should realize a decrease in costs in connection with construction and maintenance projects in which trees are affected because under the rule change the specific types of trees affected are now clearly and more narrowly defined. The rule change also attempts to address a problem with indiscriminate pruning by utility companies.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Utility companies are the only directly affected non-governmental group which should be economically impacted by this rule change. The impact should be positive because extraordinary measures, such as boring, will be required in fewer instances in the future based upon the newly clarified definition of "significant tree."

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be no effect on competition or employment.

Kam K. Movassaghi
Secretary
0209#061

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Teachers' Retirement System**

**Withdrawal of Funds from a DROP Account
(LAC 58:III.509 and 511)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the withdrawal of funds from Deferred Retirement Option Plan (DROP) accounts.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana
Chapter 5. Deferred Retirement Option Plan
§509. Withdrawal of Funds from a Drop Account**

A. - A.6.a. ...

b. changes to the monthly or annual withdrawals may only be made in accordance 511.A;

c. if a member is 70 1/2 or older when he chooses a partial single sum after withdrawals have begun, even though he retired at a younger age, he will have the required

minimum distribution calculated using the "Single Life Table" (SLT), or he may choose the "Uniform Lifetime Table" (ULT), or the "Joint and Last Survivor Table" (JLST), whichever applies. The result of using one of these tables may allow a member to lower his monthly or annual withdrawal.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR:28:1031 (May 2002), LR 28:

§511. Change of DROP Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method and/or amount if the original method selected was either §509.A.2, 3, 4, or 5. Any change must be made in accordance with the life expectancy of the participant.

1. For participants under age 70 1/2, any change in the withdrawal method must be made in accordance with the life expectancy of the participant at the time of his retirement, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

2. For participants over age 70 1/2 at the time of the change, the change in the withdrawal method may allow the participant to reduce the disbursement only if the participant was not age 70 1/2 at the time he began withdrawals. Otherwise the rule under §511.A.1 will apply.

B. 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 "Single Life Table" (SLT) for participants first eligible to begin withdrawing on or after January 1, 2003. Exception: If a retiree is 70 1/2 or older, he must meet a required minimum distribution (RMD) and may request the use of the "Single Life Table" (SLT), "Uniform Lifetime Table" (ULT) or the "Joint and Last Survivor Table" (JLST), whichever applies. Once the election has been made he cannot elect to make a change at a later date.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 24:961 (May 1998), LR 28:1032 (May 2002), LR 28:

Interested persons may comment on the proposed rule in writing until 4:30 p.m., November 25, 2002, to Bonita B. Brown, Assistant Director, Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Brian N. Minturn
Director/CEO

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Withdrawal of Funds from
a Drop Account**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a cost of \$150 to have this Notice and the final regulations published in the *Louisiana Register*. There will be no other costs or savings to state or local governments.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Individuals with DROP accounts will be able to schedule withdrawals over a longer expected lifetime in accordance with changes on the federal tax code.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition or employment.

Brian N. Minturn
Director/CEO
0209#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Experimental Fisheries ProgramCPermits (LAC 76:VII.701)

The secretary of the Department of Wildlife and Fisheries hereby gives notice of its intent to amend the Rule which provides for the harvest of underutilized species under the experimental fisheries program and the issuance of permits.

Title 76

**WILDLIFE AND FISHERIES
Part VII. Fish and Aquatic Life**

Chapter 7. Experimental Fisheries Programs

§701. Permits

A. - B.10. ...

11. When a permit is issued, only the permitted specie(s) can be retained unless other provisions are specifically stated in the permit. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

12. ...

13. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee unless specifically provided for in the permit.

B.14. - D.1. ...

2. Permit applications for the development of new gear shall include complete descriptions of the gear and methods used, including drawings or pictures, the specie(s), or group of fishes to be fished and the area to be fished.

D.3. - 6. ...

7. If any permittee does not report monthly as required by Paragraph B.9, his permit may be suspended and the permittee may lose all rights and privileges to participate in the program in future years.

8. The Harvest of Shad (*Dorosoma sp.*) and Skipjack (*Alosa chrysochloris*) with an Experimental Seine

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental seine permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental seine at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental seine under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental seine during the period after sunset and before sunrise.

iii. Experimental seines shall not be used in areas closed to seining.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental seine is a seine with a mesh size not less than 1" bar and 2" stretched and not more than 2" bar and 4" stretched, not exceeding 1,200 feet in length. The experimental seine may not be constructed of monofilament.

iii. Only "strike" fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the seine then placed around the selected school.

iv. The use of more than one experimental seine from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental seine at one time.

vi. Experimental seines shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Experimental seines shall not be left unattended as defined in R.S. 56 and shall be actively fished at all times by the permittee.

viii. Each experimental seine shall have attached to each end a 1-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in the freshwater areas of the state.

x. All provisions of R.S. 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one experimental seine permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in R.S. 56.

v. The permitted gear must be properly licensed as a fish seine.

e. General Provisions. Effective with the closure of the season for using the experimental seine permit for shad and skipjack, the possession of the experimental seine on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

9. Shad (*Dorosoma sp.*) and Skipjack (*Alosa chrysochloris*) Gill Net Permit (Lake Des Allemands Only)

a. Closed Seasons, Times and Areas

i. The season for the commercial taking of shad and skipjack under the provision of the experimental gill net permit shall be closed during the months of July, August, September and October of each year. Shad and skipjack may not be taken commercially with an experimental gill net at any time outside of this season.

ii. Commercial harvest of shad and skipjack with an experimental gill net under the provisions of this section shall not be allowed on Saturday and Sunday. There shall be no commercial taking of shad and skipjack with an experimental gill net during the period after sunset and before sunrise.

iii. Experimental gill net shall not be used in areas closed to gill netting.

b. Commercial Taking

i. Only shad and skipjack may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permitted and all fish on board of the permitted vessel shall have the head and caudal fin (tail) intact.

ii. An experimental gill net is a gill net with a mesh size not less than 1" bar and 2" stretched and not more than 2" bar and 4" stretched, not exceeding 1,200 feet in length.

iii. Only ~~strike~~ gill net fishing will be permitted; this means the school of fish to be taken must be visible from the surface and the gill net then placed in or directly near the selected school. Once deployed, the experimental gill net is to remain stationary until being run (gill net remains in place while fish are removed) or gill net is retrieved (gill net remains in place until lifted into boat).

iv. The use of more than one experimental gill net from any one or more vessels at any time is prohibited.

v. No more than two vessels may fish an experimental gill net at one time.

vi. Experimental gill net shall not be used in a manner that unduly restricts navigation of other vessels.

vii. Experimental gill net shall not be left unattended as defined in R.S. 56.

viii. Each experimental gill net shall have attached to each end a 1-gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number shall be legibly displayed on the jug.

ix. The permitted gear shall only be fished in Lac Des Allemands. Streams, bayous, canals and other connecting waterbodies are not included in this permit.

x. All provisions of R.S. 56 shall apply to persons involved in any experimental fishery or possessing any commercial gear.

c. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed and permitted fishermen.

d. Permits

i. Any person who has been convicted of an offense under the provisions of the experimental fishery permit program shall not participate in the harvest, in any manner, of fish taken under an experimental permit.

ii. No person shall receive more than one gill net permit to commercially take shad and skipjack.

iii. This permit along with other applicable licenses authorize the bearer to sell his shad and skipjack herring.

iv. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in R.S. 56.

v. The permitted gear must be properly licensed as a freshwater gill net.

e. General Provisions. Effective with the closure of the season for using the experimental gill net permit for shad and skipjack, the possession of the experimental gill net on the waters of the state shall be prohibited. Nothing shall prohibit the possession, sale, barter or exchange off the water of shad and skipjack legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

10. Experimental Freshwater River Shrimp (*Macrobrachium ohione*) Permit

a. May experimentally fish a wire mesh shrimp net, 1/4-inch bar, 6 feet in length in the Intercoastal Canal and Mississippi River within 1.5 miles of the boat ramp adjacent to the locks in Port Allen.

b. Only freshwater river shrimp may be taken; all other species shall be immediately returned to waters from which they were caught; no other fish may be in the possession of the permittee.

c. The permittee shall have the permit in possession at all times when using permitted gear; permittee shall be on board permitted vessel when operating under conditions of permit.

d. The permitted gear must be properly licensed as a Shrimp Trawl and may be fished in freshwater areas only.

e. Permitted gear must be marked using a 1 gallon jug painted international orange and marked with black lettering; the word "experimental" and the permit number should be legibly displayed on the jug.

f. This permit may be canceled at any time if in the judgment of the Secretary or his designee, the permit is being used for purposes other than that for which the permit was issued.

g. Violating any provision or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in R.S. 56.

11. Experimental Freshwater Minnow Dip Net Permit

a. May experimentally fish for bait fishes with a wire mesh dip net, 1/4-inch bar, no greater than 3 feet cylindrical open end net shaped in a cone, affixed to a handle that may be attached to a boat and is held by hand.

b. Only freshwater minnows may be taken; all threatened, endangered, specifically protected and game fish species (as defined in R.S. 56:327.A shall be immediately returned to waters from which they were caught.

c. Permittee may only possess minnows taken under this permit and legal freshwater commercial species.

d. The permittee shall have the permit in possession at all times when using permitted gear; permittee shall be on board permitted vessel when operating under conditions of permit.

e. The permitted gear must be properly licensed as a Commercial Dip Net and may be fished in freshwater areas only.

f. Permittee may only possess the permitted gear and set lines while fishing under the permit.

g. Permittee may possess or fish no more than 2 dip nets as described in Subparagraph a above on board a vessel under this permit.

h. Permitted gear handle must be painted with international orange paint.

i. This permit may be canceled at any time if in the judgement of the Secretary or his designee, the permit is being used for purposes other than that for which the permit was issued.

j. Violating any provisions or regulations of the experimental fishery permit shall deem a person not to be operating under the provisions of the program and shall subject the individual to the statutory requirements and penalties as provided for in R.S. 56:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), LR 12:847 (December 1986), amended by the Office of Fisheries, LR 15:1098 (December 1989), LR 28:1601 (July 2002), LR 28:

Interested persons may submit comments relative to the proposed Rule to Bennie Fontenot, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000, prior to Tuesday, November 5, 2002.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972.B.

James H. Jenkins, Jr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Experimental Fisheries
ProgramC Permits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed Rule will be carried out using existing staff and funding levels. Costs to develop and distribute the proposed dip net application form under the Experimental Fisheries Program is anticipated to be negligible, since only a few permits are expected to be issued annually. A slight increase in workload and paperwork is anticipated to occur mainly to review and process application forms. Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A slight increase in state revenue collections are expected, since each applicant under the program will be assessed a \$20 administrative fee charge per permit. The proposed Rule will have no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will create a new dip net permit for use in freshwater areas of the state. Freshwater fishermen who obtain the new dip net permit will be assessed an administrative charge of \$20 per permit and be allowed to take bait fish with a dip net in freshwater areas of the state. Economic benefits of reduced bait costs to freshwater fishermen may be derived from not having to purchase bait from bait vendors. Freshwater bait vendors, on the other hand, may experience a slight decrease in their sales receipts from the proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should have no significant impact on competition and employment in the public and private sectors.

James L. Patton
Undersecretary
0209#078

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Governor's Report

GOVERNOR'S REPORT

Governor's Letter to House Committee on Administration of Criminal Justice Committee Chairman August 23, 2002

Gaming Control Board April 2002 Proposed Rules
(LAC 42:III.301.E.1.1, 302, and XI.2417.B.6)

The Honorable Daniel R. Martiny, Chairman
House Committee on Administration of Criminal Justice
State Capitol
Baton Rouge, LA 70802

Dear Chairman Martiny:

On August 15, 2002, I received from your office a report of the Subcommittee on Oversight of the House Committee on Administration of Criminal Justice concerning its meeting on August 13 to review rules proposed on April 20 by the Louisiana Gaming Control Board regarding compulsive and problem gambling.

During the meeting a majority of the House Subcommittee members present found three different proposed rules "unacceptable". Two of these provisions address compulsive and problem gambling and the operation of video draw poker devices when a licensed establishment is not open for business. Board officials have indicated an intent to address these issues differently and have not requested that I disapprove the action of the Subcommittee. For this reason, my actions today do not affect these two findings of the Subcommittee; consequently, under the provisions of the Louisiana Administrative Procedure Act (R.S. 49:968(G)) these two provisions cannot become effective as proposed at this time.

The third provision found unacceptable by the House Subcommittee requires that a riverboat casino or New Orleans land based casino operator or manager and all licensees shall develop a comprehensive program for its

property, that address, at a minimum, the areas of concern designed to provide procedures to prevent persons from gambling after having been determined to be intoxicated.

It is important to note that during the 2001 Regular Session of the Louisiana Legislature Act 1124 was passed overwhelmingly (96 percent) mandating that such procedures be submitted to the Board. The author of that Act has voiced his strong support for the Board rule. Additionally, it is relevant to recognize that the Senate Oversight Subcommittee meeting with the House Subcommittee did not reject the rule.

In his letter requesting me to disapprove the committee's rejection of this rule, Judge Hillary Crain, chairman of the Louisiana Gaming Control Board, makes several important points. As Judge Crain put it, when a casino determines a person is too intoxicated to be served alcohol, that person should not be allowed to gamble any longer. The obvious reason is a person too intoxicated to be served alcohol is not likely to be capable of exercising the judgment necessary to prevent expending funds that could have a detrimental effect on themselves and their families.

Considering the fact that at least the states of Nevada, Missouri, Mississippi, Illinois and Iowa prohibit allowing "obviously intoxicated" persons to gamble; and industry claims that it already disallows gambling by intoxicated persons because it creates problems for them; industry should be willing to reduce such procedures to writing and submit them to the Board. In Judge Crain's words, "This rule is patently right."

For this reason I have decided to disapprove the action of the House Subcommittee on this rule. This action will allow the Board rule on intoxicated gaming to become effective consistent with Act 1124.

M.J. "Mike" Foster, Jr.
Governor

0209#025

Committee Reports

COMMITTEE REPORT

House of Representatives
Committee on Health and Welfare
August 21, 2002

Board of Physical Therapy Examiners C Prohibitions,
Practices and Definition of Physical Therapy
Supportive Personnel
(LAC 46:LIV.307.E and 305.A)

Pursuant to the authority of R.S. 49:968, the House Committee on Health and Welfare met on August 19, 2002, in House Committee Room No. 6 at 1:00 p.m. One of the purposes of the meeting was to exercise oversight of the Board of Physical Therapy Examiners' proposed rule to amend existing rules concerning licensure, continuing education, practice, supervision, documentation, substance abuse recovery program, and fees. The Notice of Intent to adopt such rules was published in the May 20, 2002 edition of the Louisiana Register.

The committee found a portion of the proposed rule to be severable, specifically, LAC 46:LIV.307.E, relative to prohibitions and practices within the practice of physical therapy, which proposed:

"E. A physical therapist shall perform an initial screening and assessment to determine if an individual qualifies for preventative services. The qualification for preventative services is that the individual, or client, has no acute medical/rehabilitative condition or exacerbation of a chronic condition requiring physical therapy treatment.

1. The initial screening shall be in writing and signed by the physical therapist with the basis for his determination that the individual, or client, qualifies for preventative services.

2. Preventative services shall not be billed as physical therapy treatment to third party payors, such as insurance carriers, nor to Medicare, since the provision of such services is not the administration of physical therapy treatment.

3. An individual may be a client (preventative services) and a patient (physical therapy treatment) at the same time as long as the provision of preventative services is not for the acute medical/rehabilitative condition or exacerbation of a chronic condition requiring physical therapy treatment."

The committee found the proposed LAC 46:LIV.307.E unacceptable by a vote of 10-4.

Additionally, at the committee hearing, the Board of Physical Therapy Examiners withdrew a proposed addition to the definition of "Physical Therapy Supportive Personnel" in 46:LIV.305.A. The proposed addition, as published in the May 20, 2002, Louisiana Register stated:

"D. *Spinal Manipulation, Spinal Mobilization, Peripheral Joint Manipulation, and Peripheral Joint Mobilization* C direct interventions which shall be performed exclusively by a physical therapy assistant and can not be delegated to a physical therapy assistant."

Rodney Alexander
Chairman

0209#026

Potpourri

POTPOURRI

Division of Administration Office of Community Development

Availability of Proposed FY 2003
Consolidated Annual Action Plan

As set forth in 24CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana, the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program).

A consolidated plan was prepared which outlines the State's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 2000-2004 and includes a one-year action plan for the distribution of FY 2000 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds must be prepared and publicized for each of the subsequent four program years.

The proposed FY 2003 Consolidated Annual Action Plan which identifies the proposed method of distribution of FY 2003 funds under the four HUD programs, will be available for review beginning September 10, 2002, at the Office of Community Development, Claiborne Building, Suite 7-270, 1201 North Third Street in Baton Rouge. Copies of the proposed annual action plan will also be available for review at the Louisiana Housing Finance Agency at 2415 Quail Drive in Baton Rouge, at the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 821, in Baton Rouge, and at the Department of Health and Hospitals/HIV/AIDS Program at 234 Loyola Avenue, Fifth Floor, in New Orleans.

A limited number of the proposed plans will be available for distribution and may be requested in writing or by telephone from any of the four agencies participating in the consolidated planning process. The proposed plan will also be available for viewing and copying on the internet (www.doa.state.la.us/cdbg/cdbg.htm) on or before September 10, 2002.

The following presents a summary of the proposed FY 2003 Consolidated Annual Action Plan.

The State's anticipated federal allocation for the FY 2003 Louisiana Community Development Block Grant (LCDBG) Program is approximately \$38,499,000 (subject to federal

allocation). The Office of Community Development is proposing to establish the following five program areas for the distribution of these funds.

1. Housing C\$2.5 million will be set aside to provide safe and sanitary living conditions through housing rehabilitation or replacement housing for low/moderate income persons.

2. Public Facilities C\$26.5 million will be allocated for water and wastewater systems, streets, and multi-purpose community centers.

3. Economic Development C\$4.6 million will be allocated to provide loans to businesses for job creation or retention projects and/or to provide grants to local governing bodies for infrastructure improvements which will facilitate the location of a particular business.

4. Demonstrated Needs C\$2.7 million will be set aside to alleviate critical/urgent needs involving improvements to existing water, wastewater, and gas systems.

5. LaStep C\$750,000 will be set aside to fund one or more water and/or wastewater projects which may utilize LCDBG funds for materials, engineering, and administrative costs in conjunction with local resources (human, material, and/or financial). The remainder of the LCDBG funds will be utilized for the State's cost of providing program administration and technical assistance services.

The Louisiana Housing Finance Agency, as the administrator of the State's HOME Program, expects to receive an estimated allocation of \$16,857,000 in FY 2003 funds. These funds are intended for use in support of the following affordable housing categories:

1. \$2.5 million (or 15 percent of the HOME project allocation) will be set aside for the exclusive use of state designated community housing development organizations in developing home ownership and rental housing;

2. \$4.6 million will be reserved to provide mortgage financing, down payment and closing cost assistance for first time home buyers. These funds are to be used in combination with state mortgage revenue bonds which provide below market rate mortgage financing;

3. \$1 million will be reserved for other programs;

4. \$5 million will be available for primary or secondary financing to for-profit and non-profit developers of multi-family rental housing in HOME non-entitlement areas;

5. \$2 million will be available for funding the SHARE Grant Program to provide monies for the rehabilitation of substandard housing owned and occupied by very low income families. The balance of the grant is to be used by the Agency in support of the administration of the various HOME supported programs.

The State's estimated federal allocation for the FY 2003 Emergency Shelter Grants Program (ESGP) is \$1,594,000. ESGP funding is dedicated for the rehabilitation, renovation, or conversion of buildings for use as emergency shelters for the homeless, for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless and for homeless prevention

services. The Louisiana Department of Social Services, administrative agency for the Emergency Shelter Grants Program, proposes to distribute the State's funding allocation to eligible units of general local government which may make all or part of the grant amounts available to private non-profit organizations for use in eligible activities. Eligible applicants are defined as governmental bodies for all parish jurisdictions and those city jurisdictions with a minimum population of 10,000. The Department of Social Services shall continue use of a geographic allocation formula (based on factors for low income population) to ensure that each region of the State is allotted a specified minimum of Emergency Shelter Grant assistance. Within each region, grant distribution will be conducted through a competitive grant award process. Among other evaluation criteria, this selection process will consider the extent to which proposed activities will address local needs to "compete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living."

The Louisiana Department of Health and Hospitals (DHH), Office of Public Health (OPH), HIV/AIDS Program (HAP) proposes to allocate the FY 2003 Housing Opportunities for Persons With AIDS (HOPWA) grant funds (approximately \$933,000) through a 65/35 funding split between community based organizations providing short-term rent, mortgage and utility assistance and residential facilities providing on-site housing and housing services. Each year the State receives housing assistance funds through HOPWA to be disbursed in Regions III through IX. Funding for Regions I and II, the greater New Orleans and Baton Rouge metro areas, is administered through separate grants awarded directly to the municipalities of New Orleans and Baton Rouge.

Currently there are nine community based organizations (CBOs) throughout the State that provide short-term rent, mortgage and utility assistance to low income persons living with HIV/AIDS. These funds are specifically utilized to prevent homelessness or to provide homeless individuals with a safe transitional housing option. Eligible individuals may access HOPWA for short-term housing assistance payments a maximum of five times in a 52-week period. Approximately \$588,315 (65 percent of the total FY 2003 HOPWA award) will be allocated to the agencies that score highly on applications submitted in response to the Ryan White Title II Solicitation of Proposals released by the HIV/AIDS Program in October, 2002. These grant funds will be disbursed to Regions II through IX, with a very limited allocation going to Region II for individuals living in parishes in the Region II catchment area but outside the designated Baton Rouge HOPWA municipal boundaries.

The other source of assistance available through HOPWA is the funds allocated to the regional residential facilities. The HIV/AIDS Program currently funds residential facilities in five of the seven funded regions (regions VI and IX do not have such facilities) and those five sites will receive approximately 35 percent of the FY 2003 HOPWA

allocation. Although these facilities are sole source providers of this service, these funds will be allocated through a competitive statewide HIV/AIDS Residential Facility Solicitation of Application process. These HOPWA funds will be designated for renovation, rehabilitation, acquisition, conversion, lease and repair of facilities, or for the purchase of capital equipment. There is no limit to the number of days an eligible individual may stay at one of these residential facilities.

Written comments on the proposed consolidated annual action plan may be submitted beginning September 10, 2002, and must be received no later than October 11, 2002. Comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or sent via facsimile to (225) 342-1947.

Mark C. Drennen
Commissioner

0209#033

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

1999-2001 State Implementation Plan (SIP) General Revisions

Under the authority of the Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice of proposed general revisions to the air quality State Implementation Plan (SIP). The revisions include amendments to various air quality rules in LAC 33:III.Chapters 2, 5, 6, 11, 19, and 21, that were previously promulgated beginning January 1, 1999 through December 31, 2001, and which were not previously included in other revisions to the SIP.

A public hearing will be held on October 25, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana. Interested persons are invited to attend and submit oral comments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or (225) 765-0399.

All interested persons are invited to submit written comments on the proposed general revisions to the SIP. Comments must be submitted no later than 4:30 p.m. on November 1, 2002. Comments should be mailed to Sandra Hilton, Office of Environmental Assessment, Plan Development Section, P.O. Box 82178, Baton Rouge, LA 70884-2178 or faxed to (225) 765-0617. Copies of this document can be purchased by contacting the Records Management Section at (225) 765-0843. A check or money order is required in advance for each copy of the document.

A copy of the general revisions to the SIP may be viewed Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the following DEQ locations: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508, or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0209#062

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Revision to the Water Quality Management Plan Volume 1: Continuing Planning Process

Under the authority of the Environmental Quality Act, R.S. 30:2071 et seq., the secretary gives notice that procedures have been initiated to amend Volume I of the Water Quality Management Plan (WQMP).

The Louisiana Water Quality Management Plan is the primary document associated with water quality management activities carried out by the state to implement provisions of the federal Clean Water Act (CWA). The WQMP is divided into volumes. Each volume addresses different issues. Updates and changes to the different volumes are made periodically. Volume 1 of the WQMP is entitled the *Continuing Planning Process* (CPP). The CPP specifies the various processes that the state employs to manage its water quality programs in meeting the requirements of the CWA. The last volume of the CPP approved by the Environmental Protection Agency (EPA) is the 1995 version. This proposed revision of Volume 1 contains a summary of the WQMP, reflects the updated department structure as a result of reengineering in 1999, and allows for more flexibility in the public participation process. The revised document will be submitted to EPA for approval.

A public hearing will be held on October 25, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, at 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed CPP document. Attendees should report directly to the hearing location for DEQ visitor registration, instead of the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or (225) 765-0399.

All interested persons are invited to submit written comments on the proposed CPP document. Such comments must be received no later than November 1, 2002, by 4:30

p.m. Comments should be mailed to David Hughes, Standards, Assessment and Nonpoint Section, P.O. Box 82178, Baton Rouge, LA 70884-2178, or e-mailed to david_h@deq.state.la.us, or faxed to (225) 765-0617. Copies of this document can be purchased by contacting the Records Management Section at (225) 765-0843. A check or money order is required in advance for each copy of the document.

This proposed document is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0209#063

POTPOURRI

Department of Health and Hospitals Office of Public Health

WIC Program's State Plan for 2002-2003

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC Program's State Plan for 2002-2003. The plan describes in detail the goals and the planned activities of the WIC Program for the next year. Interested persons may find copies of the State Plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC Office for copies of the plan at 25 cents per page. Interested individuals should submit their requests for copies or their comments on the Plan to the following address:

State of Louisiana
Department of Health and Hospitals
Office of Public Health
Nutrition Section - Room 406
P.O. Box 60630
New Orleans, Louisiana 70160
Attn: State Plan

Additional information may be gathered by contacting Debbie Luthy, Director of WIC Nutrition Section, (504) 568-5065.

David Hood
Secretary

0209#077

POTPOURRI
Department of Insurance
Office of the Commissioner

Directive Number 02-170C
Property and Casualty
Insurance Company Information Request

To: All Property and Casualty Insurers

Within the last year, the property and casualty insurance market has hardened nationwide, with Louisiana being no exception to this trend. The state of Louisiana is in, what some are calling, a crisis in the homeowners insurance market. A number of homeowners insurance companies are no longer accepting new business or withdrawing from the state all together due to their assessment of our loss potential. We are seeing a similar trend beginning to occur in the automobile insurance market.

We recognize the fact that a more competitive environment fosters lower insurance rates. For example, since 1990 the number of insurers writing homeowners business in Louisiana has gone from 148 companies to approximately 88 companies today, while in south Louisiana the number decreased from approximately 65 to 14 presently writing. These numbers are somewhat deceiving in that not all of the companies are actively writing or, in other words, writing new business. Due to this fact, the Louisiana Property and Casualty Insurance Commission surveyed the 221 companies that have had a book of business in Louisiana since 1990 asking them if they are currently writing new business. Of the companies surveyed, only 58 responded and of the 58, only 20 said they were currently writing new business. Therefore, we must attract new insurance companies to this state, while retaining the current insurers.

Along with the Louisiana Property and Casualty Insurance Commission, I am requesting your assistance in the solution process by issuing this directive. I need your company to give us its recommendations for changes that need to be made in the following areas: regulation, legislation, and departmental operations. In the interest of open and fair communication with the insurance industry, this directive allows companies to be frank in their assessments of regulatory and legislative related problems plaguing Louisiana. Actions taken on these recommendations could help Louisiana become a more attractive marketplace for its consumers, potential insurers and existing insurers.

Please note that your company will not be jeopardizing its relationship with the Louisiana Department of Insurance by making such recommendations. Also, your comments will remain confidential and your company's name will be anonymous. I ask that you be as direct and specific as possible with suggestions in order to ensure that there is no room for miscommunication or misinterpretation.

If you should have any questions, please feel free to contact Ms. Molly M. Quirk at mquirk@ldi.state.la.us or by calling (225) 342-7187. Please submit all recommendations in whatever form you deem appropriate by October 31, 2002

to Louisiana Department of Insurance, Attn: Property and Casualty Insurance Commission, 8th Floor, P.O. Box 94214, Baton Rouge, Louisiana 70804.

J. Robert Wooley
Acting Commissioner

0209#048

POTPOURRI
Department of Insurance
Office of the Commissioner

Directive Number 02C171
Stop Loss/Excess Policies of Insurance

To: Insurers Authorized to Issue Property and Casualty or Health and Accident Policies of Insurance in This State

Directive Number 01-161 Rescinded

Directive Number 01-161, issued on October 22, 2001, is hereby rescinded in its entirety as of this date.

Brief Explanation of Coverage

Stop-loss or excess insurance coverage may provide protection to employers against catastrophic or unpredictable losses under a self-funded employee welfare benefit plan. "Specific" stop-loss insurance coverage limits the employer sponsored health plan's cost for eligible claims for each covered individual, protecting against abnormally high claims for any one individual. "Aggregate" stop-loss or excess insurance coverage limits the employer sponsored health plan's overall annual cost by protecting against an unusually high frequency of total claims. Eligible claims are determined for a stated contract period of stop-loss or excess insurance by the date claims are both incurred by the recipient of medical care and paid by the self-funded employee welfare benefit plan. The following "claims incurred and paid" contract bases are available to suit the needs of diverse employers sponsoring self-funded group health plans.

A. "Run-in" contract basis allows for reimbursement of claims incurred under a self-funded group health plan during a stated period of at least 90 days prior to the effective date of the 12-month contract period of stop-loss or excess insurance and paid during such 12-month contract period.

B. "Paid" contract basis allows for reimbursement of claims incurred under a self-funded group health plan during a stated period prior to the effective date or during the contract period of stop-loss or excess insurance and paid within the 12-month contract period.

C. "Run-out" contract basis allows for reimbursement of claims incurred under a self-funded group health plan during the stated twelve month contract period and paid within a stated period extending at least 90 days after expiration of the 12-month contract period.

D. "Terminal Liability" is an option that may be elected upon initial application or at renewal of a contract providing a "Run-in" or a "Paid" contract basis, furnishing an extra ninety days or more of "Run-out" protection upon termination of the contract period.

Purpose

Act 273 of the 2001 Regular Session of the Louisiana Legislature mandated provision of coverage for eligible claims incurred under a group health plan during the stop-loss or excess insurance contract period, provided that proof of payment by the group health plan is furnished to the stop-loss or excess insurer within 90 days after expiration of the policy. This requirement was prompted by policyholder complaints regarding denial of reimbursement for claims incurred during the last few months of a contract period. Prior to enactment of LRS 22:675, some stop-loss or excess insurance contract provisions required claims incurred under the group health plan to also be paid by the group health plan during the stop-loss or excess insurance contract period, while providing neither "Run-in" nor "Run-out" coverage. It is often impossible for all claims incurred by employees to be filed, adjudicated and paid by the self-funded group health plan during the last few months of a standard 12-month stop-loss or excess insurance contract period. Some inexperienced employers, offering employee welfare benefits for the first time on a self-funded basis and purchasing stop-loss or excess insurance without "Run-out" coverage or optional "Terminal Liability" coverage, either misunderstood or were not properly advised regarding the extent of their exposure to uncovered risk.

However, requiring that all new and renewal stop-loss or excess insurance policies include a ninety day extension of the contract period allowed for payment of incurred claims could have serious consequences for the majority of experienced employers maintaining self-funded group health plans. Those employers assuring adequate funding of claims by the purchase of stop-loss or excess insurance renewing annually on a "Run-in" or "Paid" contract basis could face a gap in protection upon conversion to stop-loss or excess insurance provided on a "Run-out" contract basis. As long as such policies providing a "Run-in" or a "Paid" contract basis are renewed annually or replaced with similar coverage through a different carrier, there is no need for the employer to purchase optional "Terminal Liability" coverage provided that the policyholder is made aware of the potential risk involved in terminating the stop-loss or excess insurance policy.

Certification of Compliance

Insurers must revise policy forms for all types of stop-loss or excess insurance offered in the state of Louisiana as necessary to meet the requirements of Act 273 and submit such revised policy forms to the Department of Insurance for review and approval pursuant to R.S.22:620, 675.C.(7) and 675.F.(5). The appropriate Certification of Compliance form attached to this Directive must be properly completed and included with all stop-loss or excess insurance policy forms submitted to the Department.

A. Policy forms intended to cover the losses of a group health plan may assure compliance with Subsection 675.C.(5) by including provisions for coverage in accordance with the following requirements.

1. All applications for stop-loss or excess insurance must include the option to purchase a policy providing coverage on a "Run-out" contract basis, extending the "claims paid" period at least ninety days beyond expiration of the twelve month contract period allowing for claims to

be incurred under the group health plan late in the contract period, but submitted and paid during the "Run-out" period.

2. All applications for stop-loss or excess insurance that include the option to purchase a policy providing coverage restricted to claims both incurred and paid during a twelve-month contract year must contain a mandatory offer of "Terminal Liability" coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing the following disclosures.

"It is hereby agreed and understood that the stop-loss (excess) insurance policy selected does not provide reimbursement to the plan sponsor for any expenses incurred under the group health plan prior to the beginning of the contract period for stop-loss [excess] insurance or, for any expenses paid after expiration of the contract period. Only eligible expenses that are both incurred under the group health plan and paid by the group health plan within the twelve month contract period for stop-loss [excess] insurance are reimbursable under the policy selected."

3. All applications for stop-loss or excess insurance including options to purchase a policy providing coverage on a "Run-in" or a "Paid" contract basis must contain a mandatory offer of "Terminal Liability" coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing the following disclosure.

"It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses that are not paid by the group health plan within the current contract period, unless the policy is subsequently renewed. Only eligible expenses that are both incurred and paid by the group health plan within the stated contract periods are reimbursable under the contract selected."

4. Provisions for "Terminal Liability" coverage must extend the period for payment of claims under the group health plan by at least an additional 90 days from expiration of the 12-month contract period allowed for incurred claims.

5. All contracts must provide for a 90-day or longer period, from expiration of the policy, for filing proof of payment by the group health plan.

B. Pursuant to R.S. 22:675.D, stop-loss or excess insurance shall not be equivalent to reinsurance, nor shall it be defined as a contract or policy of health insurance under R.S. 22:3002(1)(a).

C. In accordance with R.S. 22:675.E, insurance companies writing stop-loss or excess insurance coverage shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This includes ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement as defined in 29 U.S.C. §1002(40), unless the underlying plan is authorized to do business in this state as a self-insurer. R.S. 22:3002(2) states that self-insurer means any entity that makes, provides, or issues a self-insurance plan. Self-Insurance Plan is defined in Subsection 3002(1)(a) as any contract, plan trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured under a

policy or contract of health insurance issued by an insurer authorized to transact business in Louisiana.

Stop-loss/excess insurance issued to a self-insurance plan must meet the following additional requirements of LRS 22:3009.

1. Aggregate and specific stop-loss or excess coverage may only be provided by an insurer licensed to do business in the state of Louisiana.

2. The stop-loss or excess policy must contain provisions to cover incurred, unpaid claims liability in the event of plan termination.

3. The stop-loss or excess insurer shall bear the risk of coverage for any employer participating in the self-insurance plan that becomes insolvent with outstanding contributions due.

Note: The stop-loss or excess insurance policy shall be submitted by the plan to the Commissioner of Insurance for review at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days subsequent to any renewal date.

Certification of Compliance

Stop-Loss/Excess Insurance Policy

R.S. 22:675.CC Stop-loss or excess insurance policy intended for issue to cover losses of a self-funded group health plan. "Group Health Plan" means an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise.

Policy Form No. _____, filed with the Louisiana Department of Insurance on:

by: _____, (Name of Insurance Company)

fully satisfies the following conditions of §675(C)(1-6).

(Printed Name and Signature of Authorized Representative of Insurer)

The particular policy definitions and/or provisions are listed for each item with corresponding page numbers.

1. The stop-loss or excess insurance policy will be issued to and insure the group health plan or the plan itself and not the employees, members, or participants.

Definition/ProvisionCPage #

2. Payments by the insurer will be made to the sponsor of the group health plan or the plan itself and not the employees, members, participants, or providers except in the event of group health plan's bankruptcy or insolvency.

Definition/ProvisionCPage #

3. The specific stop-loss or excess limit or attachment point per individual claimant is at least ten thousand dollars. The aggregate stop-loss or excess limit or attachment point for the group health plan is, at a minimum, one hundred twenty percent of the group health plan's total expected claims per policy period.

Definition/ProvisionCPage #

4. The stop-loss or excess insurance policy contains a provision stating that the bankruptcy or insolvency of the group health plan shall not release the insurer its obligation to pay losses incurred during the existence of stop-loss or excess insurance coverage.

Definition/ProvisionCPage #

5.a. The stop-loss or excess insurance policy contains a provision allowing at least ninety days after expiration of the policy for filing proof of payment by the group health plan;

b. Provisions of coverage for "Terminal Liability" extend the period for payment of claims under the group health plan by at least an additional ninety days from expiration of the twelve month period allowed for incurred claims; and

c. Application forms include all options and disclosures as dictated by Directive 02-171.

(a) Definition/ProvisionCPage #
(b) Definition/ProvisionCPage #
(c) Definition/ProvisionCPage #

6. The stop-loss or excess insurance policy provides coverage with rates not subject to adjustment by the stop-loss insurer during the policy period, unless there is:

a. a change in the benefits provided under the group health plan; or

b. enrollment under the group health plan changes by at least ten percent.

Definition/ProvisionCPage #

Certification of Compliance

Stop-Loss/Excess Insurance Policy

LSA-R.S. 22:675.FC Provider Stop-Loss or Excess Insurance policies that protect health care providers from a portion of the financial risk assumed in managed care contracts with health and accident insurers, health maintenance organizations, and self-funded group plans.

Policy Form No. _____, filed with the Louisiana Department of Insurance on: _____, by: _____

(Name of Insurance Company) fully satisfies the following conditions of §675(F)(1-4).

(Printed Name and Signature of Authorized Representative of Insurer)

The particular policy definitions and/or provisions are listed for each item with corresponding page numbers.

1. The stop-loss or excess insurance policy will be issued to and insure the contracted provider or network of health care providers.

Definition / ProvisionCPage #

2. Payments by the insurer will be made to the contracted provider or network of health care providers.

Please be guided accordingly.

J. Robert Wooley
Acting Commissioner

Definition / ProvisionCPPage #

3. The attachment point per individual claimant is at least \$5,000. The aggregate stop-loss or excess amount, if any, is at least \$50,000 per calendar year.

0209#047

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Definition / ProvisionCPPage #

4. The stop-loss or excess insurance policy contains a provision allowing at least 90 days after the date loss is incurred for filing proof of loss with the insurer.

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Definition / ProvisionCPPage #

Operator	Field	District	Well Name	Well Number	Serial Number
The Bering Company	Richie	L	R Mc-Manus	3	041094(28)
Oilfield Pipe & Wellheads, Inc.	Ravens-wood	L	Kissner et al.	2	201572(30)
Ruth M. Kennedy	Monroe	M	Ruth Yahne	1	182092
Dorothy B. Nash & L. B. Stevenson	Monroe	M	Brown	2	099111
Land & Lease Service, Inc.	Dehlco	M	Avant A	3	127092
C&H Operations	Greenwood-Waskom	S	Bell D	1	058459
C&H Operations	Greenwood-Waskom	S	Bell D	3	058461
C&H Operations	Greenw-ood-Waskom	S	Bell D	4	058462
C&H Operations	Greenwood-Waskom	S	Bell D	5	058463
C&H Operations	Greenwood-Waskom	S	Bell D	6	058464
C&H Operations	Greenwood-Waskom	S	M G Bell D	3	060118
C&H Operations	Greenwood-Waskom	S	M G Bell B SWD	2	060479
C&H Operations	Greenwood-Waskom	S	M G Bell C	1	061109
C&H Operations	Greenwood-Waskom	S	Bell B	1	061928
C&H Operations	Greenwood-Waskom	S	Bell G	1	062044
C&H Operations	Greenwood-Waskom	S	Bell G	3	063023
C&H Operations	Greenwood-Waskom	S	M G Bell D	6	063049
C&H Operations	Greenwood-Waskom	S	Bell B	4	063101
C&H Operations	Greenwood-Waskom	S	M G Bell E	3	063102
C&H Operations	Greenwood-Waskom	S	M G Bell A	7	086657
C&H Operations	Greenwood-Waskom	S	Bell B	5	098563
C&H Operations	Greenwood-Waskom	S	Minnie Bell	2	100409
C&H Operations	Greenwood-Waskom	S	Minnie Bell	1	101565
C&H Operations	Greenwood-Waskom	S	Minnie Bell	3	102817
C&H Operations	Greenwood-Waskom	S	Minnie Bell	4	102818
C&H Operations	Greenwood-Waskom	S	Bell C	2	103516
C&H Operations	Greenwood-Waskom	S	Minnie Bell	8	103803
C&H Operations	Greenwood-Waskom	S	Minnie Bell	6	103804
C&H Operations	Greenwood-Waskom	S	Minnie Bell	7	103805
C&H Operations	Greenwood-Waskom	S	Minnie Bell	10	104618
C&H Operations	Greenwood-Waskom	S	Minnie Bell	9	104619
C&H Operations	Greenwood-Waskom	S	Minnie Bell	11	104620
C&H Operations	Greenwood-Waskom	S	Bell	1	104884
C&H Operations	Greenwood-Waskom	S	Bell C	4	105136
C&H Operations	Greenwood-Waskom	S	M G Bell D	5	105469
C&H Operations	Greenwood-Waskom	S	Minnie Bell	13	105657
C&H Operations	Greenwood-Waskom	S	Minnie Bell	14	105658
C&H Operations	Greenwood-Waskom	S	Minnie Bell	15	106061
C&H Operations	Greenwood-Waskom	S	Minnie Bell	17	106063
C&H Operations	Greenwood-Waskom	S	Bell	2	106066
C&H Operations	Greenwood-Waskom	S	Bell	3	106361
C&H Operations	Greenwood-Waskom	S	Bell	4	106362
C&H Operations	Greenwood-Waskom	S	Bell H	2	106423
C&H Operations	Greenwood-Waskom	S	Bell H	3	106424
C&H Operations	Greenwood-Waskom	S	Bell C	7	106554
C&H Operations	Greenwood-Waskom	S	M G Bell E	1	106568
C&H Operations	Greenwood-Waskom	S	Bell	5	106714
C&H Operations	Greenwood-Waskom	S	M G Bell E	2	107007

C&H Operations	Greenwood-Waskom	S	Minnie Bell A	18	107212
C&H Operations	Greenwood-Waskom	S	Minnie Bell A	19	107213
C&H Operations	Greenwood-Waskom	S	Minnie Bell A	20	107214
C&H Operations	Greenwood-Waskom	S	Minnie Bell	21	108049
C&H Operations	Greenwood-Waskom	S	Minnie Bell	22	108050
C&H Operations	Greenwood-Waskom	S	Minnie Bell	23	108051
C&H Operations	Greenwood-Waskom	S	M G Bell B	9	108728
C&H Operations	Greenwood-Waskom	S	M G Bell B	10	108729
C&H Operations	Greenwood-Waskom	S	Minnie Bell	27	109009
C&H Operations	Greenwood-Waskom	S	Minnie Bell	28	109010
C&H Operations	Greenwood-Waskom	S	Minnie Bell	29	109011
C&H Operations	Greenwood-Waskom	S	Minnie Bell	33	110125
C&H Operations	Greenwood-Waskom	S	Minnie Bell	34	110126
C&H Operations	Greenwood-Waskom	S	Minnie Bell	35	110127
C&H Operations	Greenwood-Waskom	S	Minnie Bell A	40	110363
C&H Operations	Greenwood-Waskom	S	M G Bell A	12	111526
C&H Operations	Greenwood-Waskom	S	M G Bell A	14	111527
C&H Operations	Greenwood-Waskom	S	M G Bell A	15	114656
C&H Operations	Greenwood-Waskom	S	M G Bell B	13	114657
C&H Operations	Greenwood-Waskom	S	Minnie Bell	26	115896
C&H Operations	Greenwood-Waskom	S	M G Bell B	11	116980
C&H Operations	Greenwood-Waskom	S	M G Bell B	14	116981
C&H Operations	Greenwood-Waskom	S	Minnie Bell	30	117574
C&H Operations	Greenwood-Waskom	S	Minnie Bell	31	117575
C&H Operations	Greenwood-Waskom	S	Minnie Bell	32	117576
C&H Operations	Greenwood-Waskom	S	Minnie Bell	36	118522
C&H Operations	Greenwood-Waskom	S	Minnie Bell	37	118523
C&H Operations	Greenwood-Waskom	S	Minnie Bell	38	118524
C&H Operations	Greenwood-Waskom	S	Minnie Bell	41	119283
C&H Operations	Greenwood-Waskom	S	PXY VUA; Minnie Bell A	1	119284
C&H Operations	Greenwood-Waskom	S	M G Bell E	5	120520
C&H Operations	Greenwood-Waskom	S	M G Bell E	4	120521
C&H Operations	Greenwood-Waskom	S	M G Bell A	9	124202
C&H Operations	Greenwood-Waskom	S	M G Bell A	16	124203
C&H Operations	Greenwood-Waskom	S	Bell E	1	166517
C&H Operations	Greenwood-Waskom	S	Bell F	1	172882
C&H Operations	Greenwood-Waskom	S	Bell 2	1	172883
C&H Operations	Greenwood-Waskom	S	M G Bell A	17	177288
C&H Operations	Greenwood-Waskom	S	M G Bell A	18	177289
C&H Operations	Greenwood-Waskom	S	M G Bell A	19	177290
C&H Operations	Greenwood-Waskom	S	M G Bell A	20	177291
C&H Operations	Greenwood-Waskom	S	M G Bell C	4	177420
C&H Operations	Greenwood-Waskom	S	M G Bell C	5	177421
C&H Operations	Greenwood-Waskom	S	M G Bell SWD	1	184931
C&H Operations	Greenwood-Waskom	S	Bell I	1	216503
C&H Operations	Greenwood-Waskom	S	Bell J	2	216504
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Hogan Exploration Inc.	Nebo-Hemphill	M	WX D RD SUK; Howard Price	1	205040(30)
Dula Energy, Inc.	Caddo Pine Island	S	T P Duette	1	178024
Sound Resources Corporation	Beauregard	L	Owens-Illinois Dev Corp	1	199221
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Sound Resources Corporation	Assumption	L	Dugas-LeBlanc	1	204623
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Manursing Island Prod. Corp.	Mamou	L	M VU; J B Morein	1	030778
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Southern Wells, Inc.	North Cankton	L	L Savoie A	1	180587
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Southern Wells, Inc.	Cowpen Creek	L	WE Walker SWD	1	059137
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Southern Wells, Inc.	Cowpen Creek	L	Long Bell Lumber Co	1	065781
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Southern Wells, Inc.	Cowpen Creek, West	L	Owens-Illinois	1	146049
Southern Wells, Inc.	Cowpen Creek, West	L	Owens-Illinois	2	147440
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Oilfield Waste Processors, Inc.	Mermentau	Acadia	Lovic Desormeaux SWD	1	150667
Leo Fontenot Site	Section 12, Township 12 South, Range 1 East, Sumac Road	Vermilion	N/A	N/A	N/A

James H. Welsh
Commissioner of Conservation

0209#014

POTPOURRI

**Department of Public Safety and Corrections
Gaming Control Board**

Errata Notice
(LAC 42:IX.2931, XIII.2931 and 2955)

Title 42 of the Louisiana Administrative Code, compiled in June 2002, contained errors in the following Sections. Please note that the following Sections are in effect as they appear below.

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards Generally

§2931. Managerial Representative On Premises

A. The casino operator shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the casino operator's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the casino operator's internal controls as approved by the Division.

B. The casino operator shall provide, in writing, a current list of all Managerial Representatives on Premises. The Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1029 (May 2002).

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2931. Assisting in Violations

A. No employee, agent, or representative of a licensee or permittee shall intentionally assist another person in violating any provisions of the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent, or representative of a licensee or permittee to promptly notify the division of any possible violation of any federal, state or municipal law, the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 26:2824 (December 2000).

§2955. Managerial Representative On Premises

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1030 (May 2002).
0209#094

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