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Emergency Rules

DECLARATION OF EMERGENCY

Department of Health Board of Pharmacy

Marijuana Recommendations (LAC 46:LIII.2457)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:95(B), to amend one section of its rules for marijuana pharmacies relative to recordkeeping requirements as well as professional practice standards relative to recommendations for therapeutic marijuana.

Act 286 of the 2020 Legislature made several changes to the state medical marijuana law (R.S. 40:1046) including changes in the eligibility of physicians authorized to issue recommendations for therapeutic marijuana as well as the removal of the authority for the Louisiana State Board of Medical Examiners to promulgate rules relative to physicians issuing marijuana recommendations. Prior to the August 1, 2020 effective date of the new legislative act, rules had been promulgated by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy to govern the issuance, receipt, and processing of marijuana recommendations. With the removal of the authority of the Board of Medical Examiners to promulgate rules relative to physicians issuing marijuana recommendations, the Board of Pharmacy has determined it necessary to amend its rules for marijuana recommendations to provide the regulatory structure necessary to properly administer the state medical marijuana law at R.S. 40:1046.

The proposed changes in Subsection D for recordkeeping requirements include a repeal of the existing Paragraph 1 referencing a recommendation as an order, a technical change in the re-numbered Paragraph 1, and a clarification of an inventory recordkeeping requirement in the re-numbered Paragraph 3. The proposed changes in Subsection E for professional practice standards include a new Paragraph 1 with the current paragraphs re-numbered sequentially. Within Paragraph 1, Subparagraph (a) permits a marijuana pharmacy to accept a recommendation from a physician in possession of a current and unrestricted license to practice medicine as well as a current state controlled substance license with privileges for Schedule I. The subparagraph also requires the pharmacy to accept the recommendation directly from the physician either through electronic prescriptions or through facsimile. Subparagraph (b) identifies the information which shall be disclosed within the recommendation. Subparagraph (c) expires a recommendation one year after the date of issue unless a shorter period of time is specified by the physician; and further, permits a pharmacist to dispense products one or more times prior to the expiration date but limits the dispensing to a maximum of a 90-day supply in a single dispensing and a maximum of a one-year supply pursuant to a single recommendation. The proposed change in the re-numbered Paragraph 4 clarifies the requirement for the

pharmacist to comply with standards for drug utilization review and patient counseling. The proposed changes in the re-numbered Paragraph 6 remove the prohibition on the return of marijuana product inventory to the marijuana producer as well as the additional requirement to record product disposal in the Louisiana Medical Marijuana Tracking System (LMMTS).

Given the significant and beneficial impact of therapeutic marijuana on the health of patients using such treatment, the Board of Pharmacy has determined this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. The emergency rule shall become effective on November 25, 2020 and shall remain in effect for 120 days unless extended or rescinded.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2457. Standards of Practice

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

D. Recordkeeping Requirements

1. When the pharmacy receives a request for marijuana from a recommending physician in written form, the pharmacist shall cause the form to be scanned and filed using an electronic imaging system in compliance with Section 1123 of this Part.

2. Request forms (and electronic images thereof) shall be retained on the pharmacy's premises for at least two years after the date of dispensing, and further, shall be readily retrievable upon request by the board.

3. Inventory of Marijuana Product

a. The pharmacist-in-charge shall develop and maintain a perpetual inventory of all marijuana products acquired, held, dispensed, and disposed by the pharmacy.

b. The pharmacy shall access the LMMTS and enter all acquisitions and product transfer transactions in that system.

c. In the event the pharmacist-in-charge designates an agent to retrieve new marijuana product inventory from the production facility, the pharmacist shall verify the agent is at least 21 years of age and is eligible to drive on public roadways.

d. The pharmacist-in-charge shall conduct an annual inventory of all marijuana products in the possession of the pharmacy on any date which is within one year of the previous annual inventory, and further, shall conduct additional inventory counts on the following occasions:

- i. arrival of a new pharmacist-in-charge;
- ii. discovery of any significant loss, disappearance, or theft of marijuana product;
- iii. departure of a new pharmacist-in-charge; and
- iv. permanent closure of the pharmacy.

e. Inventory records shall be retained on the pharmacy's premises for at least two years after the most recent entry.

4. The pharmacy shall develop and maintain sufficient records to fully reveal the business transactions related to marijuana products, including their procurement and sale, for the current tax year as well as the two immediately preceding tax years, all of which shall be made available to the board upon request.

5. The board may require any pharmacy or its owners to furnish such information as the board considers necessary for the proper administration of R.S. 40:1046, and may require a financial audit of the business of any marijuana pharmacy, and the expense thereof shall be paid by the marijuana pharmacy.

E. Professional Practice Standards

1. Recommendation/opinion/referral (hereinafter, "request") for therapeutic marijuana

a. The pharmacist may accept any request for a marijuana product which has been:

i. issued by a physician in possession of a current and unrestricted license to practice medicine from the Louisiana State Board of Medical Examiners as well as a current and unrestricted state controlled substance license with therapeutic marijuana privileges from the board; and

ii. received directly from the physician and not from the patient or any third party other than the entity transmitting the request, either by electronic means conforming with the provisions of 21 CFR 1311 or its successor, or in the alternative, by facsimile bearing a handwritten or digital signature of the physician.

b. The request shall disclose the following information, at a minimum:

i. name, address, telephone number, and national provider identifier (npi) number of the physician issuing the request;

ii. name, address, and date of birth (or age) of the patient for whom the request was issued;

iii. identification of the debilitating medical condition for which the treatment has been requested;

iv. treatment requested;

v. date request was issued;

vi. self-certification the physician holds a current and unrestricted license to practice medicine issued by the Louisiana State Board of Medical Examiners; and

vii. signature of the physician issuing the recommendation, excluding any proxy or agent.

c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the physician. A pharmacist may dispense marijuana product on multiple occasions as indicated by the physician and needed by the patient until the request expires; however, the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one-year supply of marijuana product pursuant to a single request. A pharmacist shall not dispense marijuana product pursuant to an expired request.

2. Prior to dispensing any marijuana product to a patient, the pharmacist shall review the patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending physician.

3. Labeling of Marijuana Product Dispensed

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by the

LDAF, and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

i. name and address of the pharmacy dispensing the product;

ii. telephone number or other contact information of the pharmacy dispensing the product;

iii. name of the recommending physician;

iv. name of the patient;

v. date the product was dispensed;

vi. prescription number, which shall be a unique identifier for that specific transaction;

vii. name of the marijuana product, including any concentration, strength, or other identifiers of the marijuana product;

viii. quantity of marijuana dispensed;

ix. directions for use of the product;

x. expiration date of the product, which shall not exceed the expiration date determined by the producer of the product; and

xi. other information selected by the dispensing pharmacist to inform the patient as to the best use of the product for the intended purpose.

4. The pharmacist shall comply with the rules on drug utilization review and patient counseling in Chapter 5 of this Part.

5. Reporting transactions to state prescription monitoring program. The pharmacy shall comply with the reporting requirements as found in Chapter 29 of this Part.

6. Disposal of Marijuana Product.

a. A pharmacy may refuse to accept the delivery of marijuana product from a producer when it is determined to be misbranded, adulterated, expired, deteriorated, undesired, excess, unauthorized, or unfit for dispensing.

b. When the pharmacist determines a marijuana product is no longer suitable for dispensing, the product shall be removed from active dispensing stock and quarantined in the pharmacy pending its disposal.

c.- e.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:1473 (October 2019), LR 47:

Malcolm J Broussard
Executive Director

2012#009

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual
Disabilities Reimbursement Methodology
(LAC 50:VII.32903)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and

pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. In compliance with Act 1, the department amended the provisions governing reimbursement for non-state ICFs/IID to increase the reimbursement rates to qualifying facilities (*Louisiana Register*, Volume 46, Number 9). This Emergency Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020. This action is being taken to promote the health and welfare of Medicaid recipients in ICFs/IID by ensuring continued provider participation in the Medicaid Program.

Effective December 24, 2020, the Department of Health, Bureau of Health Services Financing amends the provisions governing reimbursement for intermediate care facilities for persons with intellectual disabilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities
Chapter 329. Reimbursement Methodology
Subchapter A. Non-State Facilities
§32903. Rate Determination

A. - M. ...

N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	N/A
33+ beds	N/A	N/A	N/A	N/A

1. The applicable differential shall be applied anytime there is a change to the per diem rates (for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

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

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

Dr. Courtney N. Phillips
Secretary

2012#049

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services
and
Office for Citizens with Developmental Disabilities

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

(*Louisiana Register*, Volume 46, Number 4). This Emergency Rule, adopted on March 19, 2020, also amended the provisions governing the reimbursement methodology for nursing facilities to include an add-on rate to the per diem. The department subsequently promulgated an Emergency Rule, adopted on April 8, 2020, which further amended Title 50 to temporarily adopt additional provisions to ensure the continuation of essential programs and services, and rescinded and replaced the nursing facility add-on provisions of the previous Emergency Rule in order to clarify the eligible nursing facility providers (*Louisiana Register*, Volume 46, Number 4). The department promulgated an Emergency Rule which amended the provisions of the Emergency Rule adopted on April 8, 2020 in order to require an attestation for adult day center providers to receive retainer payments (*Louisiana Register*, Volume 46, Number 11). This Emergency Rule is being promulgated to amend the provisions of the October 19, 2020 Emergency Rule in order to remove provisions allowing self-attestation of certain eligibility criteria information. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective December 10, 2020, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities hereby amend the provisions of the October 19, 2020 Emergency Rule and Title 50 of the *Louisiana Administrative Code* throughout the duration of the COVID-19 public health emergency declaration:

**Nursing Facilities—Reimbursement Methodology—
Reimbursement Adjustment (LAC 50:II.20006)**

The per diem rate paid to privately owned or operated nursing facilities shall include an add-on of \$12 for the duration of the COVID-19 public health emergency declaration or to end at the discretion of the state.

**Nursing Facilities—Reimbursement Methodology
Non-State, Government Owned or Operated Facilities
and State-Owned or Operated Facilities
(LAC 50:II.20009)**

Non-state, government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §20005 with the following exception.

State-owned or operated and non-state, government-owned or operated nursing facilities are not eligible for, and will not receive, the State and/or Federal declared emergency add-on rate.

**Nursing Facilities—Reimbursement Methodology
Leave of Absence Days (LAC 50:II.20021)**

State-owned or operated, and non-state government-owned or operated, facilities are not eligible for, and will not receive, the State and/or Federal declared emergency modification to leave of absence day payments.

**Home Health Program—Home Health Services
(LAC 50:XIII.Subpart 1)**

For the duration of the COVID-19 public health emergency declaration, non-physician practitioners (nurse practitioners and physician assistants) will be able to order

and review home health services, including the completion of associated documentation, in order to meet the demand for services due to access issues and a shortfall in physician availability.

**Services for Special Populations
Applied Behavior Analysis-Based Therapy Services
Covered Services and Limitations (LAC 50:XV.301.D)**

Prior authorizations for persons currently approved to receive applied behavior analysis-based (ABA) therapy services will be extended for the duration of the COVID-19 public health emergency declaration.

**Services for Special Populations—Early and Periodic
Screening, Diagnosis and Treatment
Personal Care Services—Provider Qualifications
(LAC 50:XV.Subpart 5)**

For the duration of the COVID-19 public health emergency declaration, the qualifications for providers of personal care services (PCS) to recipients receiving early and periodic screening, diagnostic and treatment (EPSDT) services will be relaxed to allow:

Recipients and workers to live in the same setting so that the recipients may receive EPSDT PCS.

Legally responsible relatives/caregivers to be a temporary direct service worker (DSW) in the absence of DSW care.

The following individuals may provide services to the recipient of EPSDT PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney).

Payment to the legally responsible relatives/caregivers designated as the temporary DSW for EPSDT PCS, if necessary, during the absence of availability of agency DSW care.

LDH approval for these services will be required. Requests will be reviewed on a case-by-case basis. If approval is granted:

Providers will pay the temporary DSW directly for services rendered; and

Providers will follow hiring procedures that include background checks and training.

At a minimum, training must include abuse and neglect reporting and infection control prior to the temporary DSW providing services.

Family members, who live with the recipient and are being temporarily approved to provide services, are exempted from background check requirements.

**Services for Special Populations—Targeted Case
Management (LAC 50:XV.Subpart 7)**

For the duration of the COVID-19 public health emergency declaration, the state makes the following allowances for early and periodic screening, diagnostic and treatment targeted case management services:

case managers may utilize telephone contacts (i.e., video or voice calls) in place of any required face-to-face contacts; and

case managers may complete initial assessments, quarterly reassessments, and annual reassessments without signatures from recipients.

Services for Special Populations—Pediatric Day Health Care Program—Pediatric Day Health Care Services (LAC 50:XV.27501.B)

For the duration of the COVID-19 public health emergency declaration, Pediatric Day Health Care (PDHC) program requirements will be temporarily changed as follows to permit skilled staff of PDHC centers that are not exhibiting any signs or symptoms of the COVID-19 infection to render PDHC services to those children who require skilled nursing, when families are not able to provide such care.

The PDHC program will allow for services to be provided in the recipient's home;

The PDHC program will allow for billing and payment of procedure code T1026 (hourly PDHC services – six hours or less per day) when billed at place of service 12 (home); and

Providers must obtain LDH approval to implement the temporary PDHC provisions. Requests for approval will be reviewed on a case-by-case basis.

Home and Community-Based Services Waivers

Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)

Due to the Department of Health (LDH) directed closures during the state of emergency, the state may make retainer payments to adult day health care (ADHC) providers. The purpose of such payments is to allow ADHC providers to retain staff and cover fixed expenses so that ADHC centers may reopen when allowed to by LDH.

LDH retains the right to recoup all or a portion of retainer payments from ADHC providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers

Supports Waiver (LAC 50:XXI.Subpart 5)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Supports Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow up to a total of 20 hours a week of respite services and or habilitation services in lieu of day habilitation or vocational services for these programs that have been closed;

Allow participants and direct support workers (DSWs) to live in the same setting so that the recipient may receive necessary respite and habilitation services;

Allow legally responsible relatives to be temporary respite or habilitation direct support, if necessary, in the absence of DSW care;

Background checks for legally responsible relatives who live in the same home with the participant prior to the declared emergency will be waived;

Documentation of services rendered is required and will be verified by the support coordination agency;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of respite or habilitation for direct support workers who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact, FaceTime, or skype;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype, in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone call to avoid a delay in services; and

Allow the state to make retainer payments to adult day habilitation centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers

Children's Choice Waiver (LAC 50:XXI.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Children's Choice Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow expansion of the current Children's Choice Waiver cap to allow for an additional 20 hours per week of family support services as needed for health and safety due to school closures;

Allow participants and family support (FS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary FS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency, if needed;

For initial waiver participants, allow the current statement of approval of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care requirement to avoid a delay in services;

Add hazard premium increase for family support services for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both, or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

Home and Community-Based Services Waivers

New Opportunities Waiver (LAC 50:XXI.Subpart 11)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the New Opportunities Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow conversion of day habilitation and vocational service program hours to individual and family support (IFS) for participants whose day habilitation and/or vocational programs have closed;

Allow sharing of direct support staff when necessary;

Add monitored in-home caregiving (MIHC) as a service;

Allow participants and individual and family support (IFS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary IFS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disability/developmental disability (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators and supported living coordinators to substitute phone contact, FaceTime, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype or phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the state to make retainer payments to adult day centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

The adult day center must provide a signed attestation developed by the department agreeing to the following

during the period of the retainer payments: (1) not to furlough or lay off staff, (2) maintain wages at existing levels, (3) the ADC has not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the public health emergency. If a provider has already received revenues in excess of the pre-public health emergency level, retainer payments are not available.

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers

Residential Options Waiver (LAC 50:XXI.Subpart 13)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Residential Options Waiver are relaxed for the duration of the COVID-19 public health emergency declaration to:

Allow sharing of direct support staff when necessary;

Allow conversion of day habilitation and vocational services to community living supports (CLS) for participants whose day habilitation and or vocational program have been closed;

Add monitored in-home caregiving (MIHC) as a service;

Allow participants and community living support (CLS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Documentation of services rendered is required and will be verified by the support coordination agency;

Allow legally responsible relatives to be temporary community living support (CLS) DSWs during the declared emergency if necessary in the absence of DSW care;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to

participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, or both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid delay in services; and

Allow the state to make retainer payments to adult day centers and adult day health care centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

The adult day center must provide a signed attestation developed by the department agreeing to the following during the period of the retainer payments: (1) not to furlough or lay off staff, (2) maintain wages at existing levels, (3) the ADC has not received funding from any other sources, including but not limited to, unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the public health emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the public health emergency. If a provider has already received revenues in excess of the pre-public health emergency level, retainer payments are not available.

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

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

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

Dr. Courtney N. Phillips
Secretary

2012#052

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services
and
Office for Citizens with Developmental Disabilities**

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency
Home and Community-Based Services Waivers
and Long-Term Personal Care Services

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4 and *Louisiana Register*, Volume 46, Number 7).

The department promulgated an Emergency Rule, adopted on August 25, 2020, to further amend the Adult Day Health Care (ADHC) Waiver and the Community Choices Waiver (CCW), and to amend the provisions governing long term-personal care services (LT-PCS) in order to ensure that these

services continue uninterrupted throughout the COVID-19 public health emergency declaration. This Emergency Rule also clarified that the home and community-based services (HCBS) waiver provisions of the Emergency Rules published in the April 20, 2020 edition of the *Louisiana Register* which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in April 2020 or until the Appendix K waiver termination date of January 26, 2021, whichever is later (*Louisiana Register*, Volume 46, Number 9). This Emergency Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or the duration of the COVID-19 public health emergency declaration, whichever is shorter.

Effective December 24, 2020, the Department of Health, Bureau of Health Services Financing, OAAS and OCDD hereby amend the provisions governing the ADHC Waiver, the CCW, and LT-PCS throughout the COVID-19 public health emergency declaration, and clarify that the HCBS waiver provisions which correspond to Louisiana's section 1915(c) Appendix K waiver will remain in effect for the duration of the Emergency Rules published in the April 20, 2020 *Louisiana Register* or until the Appendix K waiver termination date of January 26, 2021, whichever is later, in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

Services for Special Populations—Personal Care Services (LAC 50:XV.Subpart 9)

Due to the COVID-19 public health emergency declaration, the Office of Aging and Adult Services (OAAS) may also utilize the level of care eligibility tool (LOCET) to determine if an individual meets eligibility qualifications for long term-personal care services (LT-PCS) and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

The LOCET may also be used to generate a score that measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment. Criteria used to generate the score will be consistent with criteria on the interRAI home care assessment tool currently used. This score will correspond with the same level of support category and allocation of weekly service hours associated with that level.

OAAS may use the LOCET until such time as the applicant/recipient is able to be assessed using the uniform interRAI home care assessment tool.

Home and Community-Based Services Waiver – Adult Day Health Care (LAC 50:XXI.Subpart 3)

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the following options may be available through the Adult Day Health Care (ADHC) Waiver:

The state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

The state is adding the following services in the ADHC Waiver:

Home Delivered Meals. The purpose of home delivered meals is to assist in meeting the nutritional needs of an individual in support of the maintenance of self-sufficiency and enhancing the quality of life. Up to two nutritionally balanced meals per day may be delivered to the home of the participant. This service may be provided by the ADHC provider.

Assistive Devices and Medical Supplies. Assistive devices and medical supplies are specialized medical equipment and supplies that include:

Devices, controls, appliances or nutritional supplements specified in the Plan of Care that enable participants to increase their ability to perform activities of daily living (ADLs);

Devices, controls, appliances or nutritional supplements that enable participants to perceive, control or communicate with the environment in which they live or provide emergency response;

Items, supplies and services necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items;

Supplies and services to assure participants' health and welfare;

Other durable and non-durable medical equipment and necessary medical supplies that are necessary but not available under the Medicaid State Plan;

Personal Emergency Response Systems (PERS);

Other in-home monitoring and medication management devices and technology;

Routine maintenance or repair of specialized equipment; and

Batteries, extended warranties and service contracts that are cost effective and assure health and welfare.

This includes medical equipment not available under the Medicaid State Plan that is necessary to address participant functional limitations and necessary medical supplies not available under the Medicaid State Plan.

Home and Community-Based Services Waiver

Community Choices Waiver (LAC 50:XXI.Subpart 7)

During the COVID-19 public health emergency declaration, and with approval from the Centers for Medicare and Medicaid Services (CMS), the state may allow ADHC providers to provide services telephonically to waiver participants that cannot attend the ADHC center to ensure continuity of services.

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

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

Dr. Courtney N. Phillips
Secretary

2012#048

DECLARATION OF EMERGENCY

Department of Health Licensed Professional Counselors Board of Examiners

Teletherapy (LAC 46:LX.503 and 505)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically §505 and the definition of Internet Counseling in §503. The LPCBE finds an imminent danger to the public's health, safety, and welfare; thereby, requiring the immediate adoption of this rule to respond to the Covid-19 health emergency. The following Emergency Rule, effective November 20, 2020, shall remain in effect for a maximum of 120 days.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 5. License and Practice of Counseling

§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors

A. ...

Practice of Mental Health Counseling/Psychotherapy—

a. - g. ...

h. Internet Counseling—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:757 (June 2019), LR 46:

**§505. Teletherapy Guidelines for Licensees
(Formerly Diagnosing for Serious Mental
Illnesses)**

A. This Chapter defines and establishes minimum standards for the delivery of mental health counseling, psychotherapy, and marriage and family therapy services using technology-assisted media. Teletherapy references the provision of counseling and psychotherapy services from a distance which is consistent with the same standards of practice as in-person counseling settings.

B. Teletherapy is defined as a method of delivering mental health counseling, psychotherapy, and marriage and family therapy services as prescribed by R.S. 37:1101 and R.S. 37:1116 using interactive technology-assisted media to facilitate prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, groups, organizations, or the general public that enables a licensee and a client(s) separated by distance to interact via synchronous video and audio transmission.

C. The board recognizes that safe and effective practices in teletherapy require specific training, skills, and techniques and has set forth the following regulatory standards to ensure competence and safety. This Rule shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law. Nothing in this Section shall preclude a client from receiving in-person counseling, psychotherapy, and marriage and family therapy services after agreeing to receive services via telemental health. Teletherapy shall be delivered in real-time (synchronous) using technology-assisted media such as telephonic and videoconferencing through computers and mobile devices. The use of asynchronous modalities (e-mail, chatting, texting, and fax) is not appropriate and shall not be used for teletherapy, except in a crisis to ensure the client's safety and stability.

D. Licensees shall provide services consistent with the jurisdictional licensing laws and rules in both the jurisdiction in which licensee is physically located and where the client is physically located. Licensees providing teletherapy services to clients outside of Louisiana must comply with the regulations in the state in which the client is located at the time of service. The licensee shall contact the licensing board in the state where the client is located and document all relevant regulations regarding teletherapy. A nonresident of Louisiana who wishes to provide teletherapy health services in Louisiana must be licensed by the board.

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. The licensee must have been practicing for at least one year.
4. The licensee must complete either option below.
 - a. Graduate-Level Academic Training. At least one graduate-level academic course in telemental health

counseling. The course must have included at least 45 clock hours (equivalent to a three-credit hour semester course).

b. Professional Training with a minimum of nine synchronous clock hours in teletherapy. The presenter shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:

- i. appropriateness of teletherapy;
- ii. teletherapy theory and practice;
- iii. theory integration;
- iv. modes of delivery;
- v. risk management;
- vi. managing emergencies;
- vii. legal/ethical issues.

5. Licensees privileged in teletherapy must accrue three clock hours of continuing education during each renewal period.

F. At the onset of teletherapy, the licensee shall obtain verbal and/or written informed consent from the client and shall document such consent in the client's record.

1. Electronic signature(s) and date may be used in the documentation of informed consent.

2. Provisions of informed consent for teletherapy services shall include:

- a. mode and parameter of technology-assisted media(s), and technical failure;
- b. scheduling and structure of teletherapy;
- c. risks of teletherapy;
- d. privacy and limits of confidentiality;
- e. contact between sessions;
- f. emergency plan;
- g. consultation and coordination of care with other professionals;
- h. referrals and termination of services;
- i. information and record keeping;
- j. billing and third-party payors;
- k. ethical and legal rights, responsibilities, and limitations within and across state lines and/or international boundaries.

G. The licensee shall provide each client with his/her declaration or statement of practice on file with the board office.

H. At the onset of each session the licensee shall verify and document the following:

1. The identity and location of the licensee and the client. If the client is a minor, the licensee must also verify the identity of the parent or guardian consenting to the minor's treatment. In cases where conservatorship, guardianship, or parental rights of the minor client have been modified by the court, the licensee shall obtain and review a copy of the custody agreement or court order before the onset of treatment.

2. The location and contact information of the emergency room and first responders nearest to the client's location.

I. The licensee shall determine if the client may be properly diagnosed and/or treated via teletherapy; and shall affirm that technology-assisted media are appropriate for

clients with sensory deficits. The licensee shall affirm the client's knowledge and use of selected technology-assisted media(s) (i.e., software and devices). Clients who cannot be diagnosed or treated properly via teletherapy services shall be dismissed and treated in-person, and/or properly terminated with appropriate referrals. The licensee shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards. The licensee shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy, and shall not reference clients generally or specifically on such formats.

J. Policies and procedures for the documentation, maintenance, access, transmission and destruction of record and information using technology assisted media shall be consistent with the same ethical and regulatory standards for in-person services. Services must be accurately documented in teletherapy services, denoting the distance between the licensee and the client. Documentation shall include verification of the licensee's and client's location, type of service(s) provided the date of service, and duration of service. The licensee shall inform clients of how records are maintained, type of encryption and security assigned to the records, and how long archival storage is maintained.

K. Telesupervision is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S. 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. Up to 25 percent of total supervision hours may be used within a telesupervision format.

1. Teletherapy supervision may include but is not limited to, the review of case presentation, audio tapes, video tapes, and observation to promote the development of the practitioner's clinical skills.

2. Teletherapy supervision shall be provided in compliance with the same ethical and regulatory standards as in-person supervision.

3. The supervisor shall inform supervisees of the potential risks and benefits associated with telesupervision.

4. The supervisor shall determine if the supervisee may be properly supervised via teletherapy supervision. Supervisees who cannot be supervised via teletherapy supervision shall be restricted to in-person supervision, and/or properly terminated with appropriate referrals.

5. The supervisor shall affirm the supervisee's knowledge and use of selected technology-assisted media(s) (i.e., software and devices).

6. The supervisor shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards.

7. The supervisor shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy supervision, and shall not reference supervisee generally or specifically on such formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (March 2019), amended LR 46:

Jamie S. Doming
Executive Director

2012#008

DECLARATION OF EMERGENCY

Department of Health Office of Public Health

Added Controlled Dangerous Substances (LAC 46:LIII.2704)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to the rulemaking authority granted to the Secretary of LDH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.), effective November 23, 2020, and shall remain in effect for the maximum period allowed under the act or until adoption of a final Rule, whichever occurs first.

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under Schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that Schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2704. Added Controlled Dangerous Substances

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. 1-(1-(1-(4-bromophenyl) ethyl) piperidin-4-yl)-1,3-dihydro-2H-benzimidazol-2-one

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 47:

Dr. Courtney N. Phillips
Secretary

2012#010

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Reopening School Facilities for the 2020-2021 School Year
(LAC 28:LXXIX.1105, CXV.401, and CXXXIX.4101)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CXV in Bulletin 741—*Louisiana Handbook for School Administrators*; LAC 28:LXXIX in Bulletin 741 (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*; and LAC 28:CXXXIX in Bulletin 126—*Charter Schools*. The aforementioned revisions enable Local Education Agencies (LEAs) to continue to implement, for the duration of 168 JBE2020, the current policy regarding Phase 3 minimum requirements, pertaining to the reopening school facilities for the 2020-2021 school year. This Declaration of Emergency, effective November 25, 2020, is for a period of 120 days from adoption, or until finally adopted as Rule.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 11. Health

Subchapter B. Reopening School Facilities for the 2020-2021 School Year

§1105. Purpose and Background

A. - C. ...

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. - C. ...

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. - C. ...

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of

reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Sandy Holloway
President

2012#011

Rules

RULE

Department of Children and Family Services Economic Stability Section

Supplemental Nutrition Assistance Program (SNAP) Electronic Benefits Issuance System (LAC 67:III.401 and 403)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended the *Louisiana Administrative Code* (LAC), Title 67, Part III Economic Stability.

Pursuant to the authority granted to the department by the Food and Nutrition Act of 2008 in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR, the department considers these amendments necessary to clarify or adopt rules that govern the Supplemental Nutrition Assistance Program.

LAC 67:III, Subpart 1 General Administrative Procedures, Section 401 has been amended to update the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP). Section 403 has been amended to update the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program and to change the number of days when SNAP benefits are issued each month. This Rule is hereby adopted on the day of promulgation and is effective January 1, 2021.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 1. General Administrative Procedures

Chapter 4. Electronic Benefits Issuance System

§401. Electronic Benefits Transfer (EBT)

A. Economic Stability programs utilize an electronic benefits issuance system referred to as Electronic Benefits Transfer (EBT) that allows eligible individuals and households to have their governmental benefits deposited into an account to pay for products purchased or to obtain authorized cash payments. Programs that utilize the EBT are Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Supplemental Nutrition Assistance Program (SNAP) Benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1, 7 CFR 274.12 and 45 CFR 95(F). Section 404(g) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1231 (December 1996), amended LR 23:869 (July 1997), LR 33:1878 (September 2007), repromulgated LR 33:2203 (October 2007), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:1669 (December 2020), effective January 1, 2021.

§403. Cash Benefits

[Formerly §402]

A. Cash benefits and Supplemental Nutrition Assistance Program (SNAP) benefits shall be available through EBT in

staggered cycles to on-going households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. Cash benefits will be available within the first five days of each month. SNAP benefits will be available within the first 23 days of each month. SNAP cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized except in emergency circumstances in which case benefits will be available on the same day.

B. Benefits are delivered in this manner for households certified on an on-going basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 365 days from the date of availability will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998) amended LR 33:1878 (September 2007), repromulgated LR 33:2203 (October 2007), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Division of Family Support, LR 44:23 (January 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:1669 (December 2020), effective January 1, 2021.

Marketa Garner Walters
Secretary

2012#026

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Reopening of Schools for the 2020-2021 School Year (LAC 28:CXXXIX.103, 4101, 4103 and 4105)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXIX (Bulletin 126). Amendments align current policy with Act 9 of the 2020 First Extraordinary Session, which requires the State Board of Elementary and Secondary Education (BESE) to adopt, no later than July 15, 2020, emergency rules informed by the Centers for Disease Control and Prevention (CDC) guidelines to provide minimum standards, policies, medical exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. - A.2. ...

* * *

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

* * *

High-Touch Surface—surfaces that are touched frequently, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

* * *

LDH—the Louisiana Department of Health.

* * *

Static Group—a group whose composition of students and adults does not change.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:439.1, 17:3391, 17:3981, and 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:1018 (July 2016), LR 43:2476 (December 2017), LR 46:1670 (December 2020).

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical.

B. The requirements contained within this Chapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated or if the LDH or CDC revise guidance regarding school settings, the LDE will review the standards contained within this Chapter and, as appropriate and necessary, propose revisions of this Chapter to BESE.

C. While the requirements outlined in this Chapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. The governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local

governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

F. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of 6 feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020).

§4103. Minimum Requirements for Reopening and Operating School Facilities

A. Group Sizes

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

2. Group Composition

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This must include, at a minimum, students in grades 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.

b. The composition of a group may change if students are able to maintain a physical distance of at least six feet from other students and adults in a classroom or indoor setting, to the greatest extent possible.

c. Students with disabilities must continue to receive special education and related services in the least restrictive environment. School systems must factor in any additional service providers who may need to enter the classroom, students who receive services outside the classroom (e.g. resource, APE), and/or students who receive services through alternate instructional methods.

B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

3. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

4. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

5. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

E. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

F. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

G. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student’s unique academic, social, emotional, familial, and medical needs of a student, as identified by the student’s parent or custodian.

H. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in

accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS® observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

2. Essential visitors must comply with the minimum health and safety standards in this Subchapter.

I. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020).

§4105. Local Education Agency (LEA) Reopening Policies and Plans

A. Prior to the beginning of the 2020-2021 school year, each local school board must adopt policies in accordance with the standards outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1671 (December 2020).

Shan N. Davis
Executive Director

2012#035

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Diploma Integrity Community Service Diploma Endorsement (LAC 28: CXV.2317)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28: CXV (Bulletin 741). Revisions repeal the grade-level community service hour requirements and instead require that a student pursuing a Community Service Diploma Endorsement earn 80 hours of approved community service hours prior to graduation, as appropriate and reasonable. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction Subchapter A. Standards and Curricula

§2317. High Schools

A. - H. ...

I. Community Service Diploma Endorsement

1. LEAs may allow students to earn a community service diploma endorsement.

2. Entering freshmen in 2013-2014 and beyond may earn the community service diploma endorsement by completing, at a minimum, 80 hours of documented community service prior to graduation.

3. ...

4. Students transferring into a participating LEA after the ninth grade or students graduating early may receive an endorsement provided a total of 80 community service hours are completed prior to graduation.

J. - K.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:154, 17:264, 17:1944, 17:1945, and 17:4073.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014), amended LR 40:2530 (December 2014), LR 45:37 (January 2019), LR 45:227 (February 2019), LR 46:1671 (December 2020).

Shan N. Davis
Executive Director

2012#036

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Reopening of Schools for the 2020-2021 School Year (LAC 28: CXV.401, 403, 405, and 3703)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28: CXV (Bulletin 741). Amendments align current policy with Act 9 of the 2020 First Extraordinary Session, which requires the Board of Elementary and Secondary Education (BESE) to adopt, no later than July 15, 2020, emergency rules informed by the Centers for Disease Control and Prevention (CDC) guidelines to provide minimum standards, policies, medical exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical.

B. The requirements contained within this Chapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated or if

the LDH or CDC revise guidance regarding school settings, LDE will review the standards contained within this Chapter and, as appropriate and necessary, propose revisions of this Chapter to BESE.

C. While the requirements outlined in this Chapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. The governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

F. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of 6 feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020).

§403. Minimum Requirements for Reopening and Operating School Facilities

A. Group Sizes

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

2. Group Composition

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This must include, at a minimum, students in Grade 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.

b. The composition of a group may change if students are able to maintain a physical distance of at least six feet from other students and adults in a classroom or indoor setting, to the greatest extent possible.

c. Students with disabilities must continue to receive special education and related services in the least restrictive environment. School systems must factor in any additional service providers who may need to enter the classroom, students who receive services outside the classroom (e.g. resource, APE), and/or students who receive services through alternate instructional methods.

B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

3. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

4. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

5. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

E. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

F. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

G. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

H. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS[®] observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

I. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020).

§405. Local Education Agency (LEA) Reopening Policies and Plans

A. Prior to the beginning of the 2020-2021 school year, each local school board must adopt policies in accordance with the standards outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1673 (December 2020).

Chapter 37. Glossary

§3703. Definitions

* * *

Board or *BESE*—the state Board of Elementary and Secondary Education.

* * *

Department or *LDE*—the Louisiana Department of Education.

* * *

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

* * *

High-Touch Surface—surfaces that are touched frequently, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

* * *

LDH—the Louisiana Department of Health.

* * *

Static Group—a group whose composition of students and adults does not change.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2231 (August 2013), LR 46:1673 (December 2020).

Shan N. Davis
Executive Director

2012#037

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Reopening of Schools for the 2020-2021 School Year
(LAC 28:LXXIX.1101, 1103, 1105, 1107, 1109, and 3303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28: CXV (Bulletin 741) and LAC 28: CLXIII (Bulletin 138). Amendments align current policy with Act 9 of the 2020 First Extraordinary Session, which requires the Board of Elementary and Secondary Education (BESE) to adopt, no later than July 15, 2020, emergency rules informed by the Centers for Disease Control and Prevention (CDC) guidelines to provide minimum standards, policies, medical exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 11. Health

Subchapter A. General Provisions

§1101. Immunization

A. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 44:411, 17:170(D), and 17:170(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), LR 35:1232 (July 2009), LR 35:2348 (November 2009), LR 39:1443 (June 2013), repromulgated LR 46:1674 (December 2020).

§1103. Diabetes Management and Treatment

NOTE: This Section was developed in coordination with the Louisiana State Board of Nursing (LSBN). Any waivers, deletions, additions, amendments, or alterations to this policy shall be approved by both BESE and LSBN.

A. - A.4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, 17:170(D), 17:170(A)(1), and 17:436.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:480 (March 2013), repromulgated LR 46:1674 (December 2020).

Subchapter B. Reopening School Facilities for the 2020-2021 School Year

§1105. Purpose and Background

A. This Subchapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic and to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical.

B. The requirements contained within this Subchapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated, or if the LDH or CDC revise guidance regarding school settings, the LDE will review the standards contained within this Subchapter and, as appropriate and necessary, propose revisions of this Subchapter to BESE.

C. While the requirements outlined in this Subchapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. The governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

F. For the purposes of this Subchapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020).

§1107. Minimum Requirements for Reopening and Operating School Facilities

A. Group Sizes

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

2. Group Composition

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This should include, at a minimum, students in grades 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.

b. The composition of a group may change if students are able to maintain a physical distance of at least

six feet from other students and adults in a classroom or indoor setting, to the greatest extent possible.

c. Students with disabilities must continue to receive special education and related services in the least restrictive environment. School systems must factor in any additional service providers who may need to enter the classroom, students who receive services outside the classroom (e.g. resource, APE), and/or students who receive services through alternate instructional methods.

B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

3. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

4. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

5. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

E. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

F. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

G. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

H. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct *CLASS*[®] observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

2. Essential visitors must comply with the minimum health and safety standards in this Subchapter.

I. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1 and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020).

§1109. Nonpublic School Board or Governing Authority Reopening Policies and Plans

A. Prior to the beginning of the 2020-2021 school year, each nonpublic school board or governing authority must adopt policies in accordance with the standards outlined in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1675 (December 2020).

Chapter 33. Glossary

§3303. Definitions

* * *

Department or *LDE*—the Louisiana Department of Education.

* * *

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to

droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

* * *

High-Touch Surface—surfaces that are touched frequently, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

* * *

LDH—the Louisiana Department of Health.

* * *

Static Group—a group whose composition of students and adults does not change.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary, Education, LR 34:230 (February 2008), amended LR 36:2848 (December 2010), LR 38:1405 (June 2012), LR 39:1457 (June 2013), LR 41:1486 (August 2015), LR 46:1675 (December 2020).

Shan N. Davis
Executive Director

2012#038

RULE

**Department of Health
Board of Dentistry**

CDC Inspection Violation Expungement;
Nitrous Oxide Analgesia
(LAC 46:XXXIII.322 and 1502)

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), the Department of Health, Board of Dentistry has amended LAC 46:XXXIII.322 and 1502. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§322. Expungement of Disciplinary Actions

A. - A.4. ...

B. A dentist may apply for the expungement of a first time CDC inspection violation provided:

1. a period of three years has elapsed from the date the consent decree was executed by the board president or order issued after a disciplinary hearing;
2. the dentist has not had any subsequent disciplinary actions of any kind taken against him by the board or any other licensing or certifying agency since the initial advertising violation in question;
3. has no disciplinary actions or investigations pending at the time of request;
4. the board will retain all records relative to the first violation, and it may use same in connection with future disciplinary proceedings, if any.

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 33:2562 (December 2007), amended by Department of Health, Board of Dentistry, LR 46:1676 (December 2020).

**Chapter 15. Anesthesia/Analgesia Administration
§1502. Types of Permits**

A.1. - 2. ...

B. In order for anyone to perform any type of sedation or general anesthesia beyond minimal sedation or nitrous oxide analgesia in conjunction with dental procedures in a dental office or in any facility in which dentistry is being performed, an office permit must have been issued by the board for that location, subject to the exceptions in R.S. 37:793(H). The office permit must be for the level of sedation or general anesthesia equal to or higher than the level to be performed. No office or personal permit is required for minimal sedation and no office permit is required for nitrous oxide analgesia.

C. ...

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 42:53 (January 2016), amended by Department of Health, Board of Dentistry, LR 46:1676 (December 2020).

Arthur Hickham, Jr.
Executive Director

2012#018

RULE

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

Office for Citizens with Developmental Disabilities

Act 421 Children's Medicaid Option
(LAC 50:XXII.Chapters 81-85)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXII.Chapters 81-85 in the Medical Assistance Program as authorized by R.S. 36:254, 46:977.21-977.25 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 9. Act 421 Children's Medicaid Option

Chapter 81. General Provisions

§8101. Purpose

A. The purpose of the Act 421 Children's Medicaid Option (421-CMO) program is to provide Medicaid State Plan services to children with disabilities who meet the eligibility criteria set forth in this Subpart, despite parental or household income that would otherwise exclude them from Medicaid eligibility.

B. The Department of Health (LDH) has expenditure authority under section 1115 of the Social Security Act (Act) to claim as medical assistance the costs of services provided under a risk contract to eligible individuals. Through this section 1115 demonstration, the State is allowed to permit Medicaid managed care organizations (MCOs) to provide Medicaid State Plan services to children with disabilities regardless of their parents' and/or household income. LDH shall, subject to the approval of the Centers for Medicare and Medicaid Services (CMS), institute a program to provide health care services via the State's Medicaid program for the population contemplated under Section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248), subject to additional terms and conditions set forth in this Subpart.

C. 421-CMO enrollees are eligible for all medically necessary Medicaid State Plan services.

D. The number of enrollees in the 421-CMO program is contingent upon the amount appropriated by the Louisiana legislature annually for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1676 (December 2020).

§8103. Effective Date and Administration

A. Services provided under the 421-CMO program shall begin upon approval of expenditure authority under section 1115 of the Act by CMS.

B. Upon approval by CMS, enrollment and start of services will commence at the beginning of the first calendar quarter after conclusion of the initial registration period.

C. The 421-CMO program shall be administered as a section 1115 demonstration waiver under the authority of LDH, in collaboration with the Healthy Louisiana MCOs.

D. The 421-CMO program is a demonstration waiver that will span five years. LDH may request approval for an extension of this section 1115 demonstration from CMS prior to the expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1677 (December 2020).

§8105. Enrollee Qualifications and Admissions Criteria

A. In order to qualify for the 421-CMO program, an individual must meet both programmatic eligibility and clinical eligibility criteria as set forth in this Subpart.

B. Programmatic eligibility. In order to be programmatically eligible for the 421-CMO program, an individual must meet all of the following criteria:

1. Is 18 years of age or younger (under 19 years of age).
2. Is a U.S. Citizen or qualified alien.
3. Is a Louisiana resident.
4. Has or has applied for a Social Security Number.
5. Has countable resources of \$2,000 or less (parental/household resources not considered).

6. Has care needs that can be safely met at home at a lower cost than the cost of services provided in an institutional setting.

7. Maintains pre-existing private health insurance for major medical coverage, either through employer sponsored insurance, the federal marketplace, or other independently purchased commercial health insurance, unless a hardship exception is applied for and granted by LDH.

a. LDH will employ a look-back period of one 180 days to determine pre-existing private health insurance.

b. Lock-out period. If LDH determines that a family or responsible adult has discontinued pre-existing private health insurance, either during the look-back period or at any time during the enrollee's enrollment in the 421-CMO program, LDH will impose a lock-out.

c. During the lock-out period, the enrollee will be unable to receive services, but will retain his or her enrollment in the 421-CMO program.

d. The lock-out period will end when the enrollee demonstrates new or former pre-existing private health insurance has been re-instated.

e. The lock-out period will extend up to 180 days from discontinuation of pre-existing private health insurance or 421-CMO program offer, whichever date is later.

f. At the conclusion of the 180-day lock-out period, if the enrollee has not re-instated the pre-existing private health insurance, the enrollee will be terminated from the 421-CMO program.

g. If terminated, the individual can re-register for the 421-CMO program and be placed on the 421-CMO registry as a new applicant.

h. Hardship Exception. The enrollee can apply for a hardship exception at any time, including during a lock-out period.

i. A hardship exists when:

(a). private health insurance premiums and any additional deductibles and co-payments or out of pocket healthcare costs for the individual obtaining coverage equal or exceed 5 percent of the household income;

(b). unemployment resulting in loss of employer-sponsored private insurance for the child; or

(c). an exemption period of 90 days for transition to new employment, after which the enrollee must resume private health insurance.

ii. LDH's grant of a hardship exception will end the lock-out period.

8. Is not otherwise eligible for Medicaid or CHIP.

C. Clinical eligibility. In order to be clinically eligible for the 421-CMO program, an individual must meet all of the following criteria:

1. Has a disability, defined as a medically determinable physical or mental impairment (or combination of impairments) that:

a. results in marked and severe functional limitations; and

b. has lasted or is expected to last for at least one year or to result in death.

2. Meets the medical necessity requirement, assessed on an annual basis, for institutional placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID), a nursing facility, or a hospital.

a. An individual meets ICF/IID level of care when he/she:

i. has obtained a statement of approval from the Office for Citizens with Developmental Disabilities, confirming that he has a developmental disability as defined in R.S. 28:451.2; and

ii. meets the requirements for active treatment of a developmental disability under the supervision of a qualified developmental disability professional, as prescribed on Form 90-L.

b. An individual meets nursing facility level of care when he demonstrates the following, assessed in accordance with the Act 421 Children's Medicaid Option Assessment Tool:

i. the need for skilled nursing and/or therapeutic interventions on a regular and sustained basis; and

ii. substantial functional limitations as compared to same age peer group in two of the following areas: learning, communication, self-care, mobility, social competency, money management (for children 18 and older), work, and meal preparation.

c. An individual meets hospital level of care when he demonstrates the following, assessed in accordance with the Act 421 Children's Medicaid Option Assessment Tool:

i. frequent and complex medical care that requires the use of equipment to prevent life-threatening situations, with skilled medical care required multiple times during each 24-hour period;

ii. complex skilled medical interventions that are expected to persist for at least six months; and

iii. overall health condition that is highly unstable and presents constant potential for complications or rapid deterioration, with the result that the child requires continuous assessment by professional nurses, parents, or other properly instructed individuals, in order to detect unstable and life-threatening condition and respond promptly with appropriate care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1677 (December 2020).

§8107. Admission Denial or Discharge Criteria

A. Individuals shall be denied admission to or discharged from 421-CMO program if any of the following criteria is met:

1. the individual does not meet the programmatic eligibility requirements for the 421-CMO program;

2. the individual does not meet the clinical eligibility requirements for the 421-CMO program;

3. the individual is incarcerated or placed under the jurisdiction of penal authorities, courts or state juvenile justice authorities;

4. the individual resides in another state or has a change of residence to another state;

5. the individual or responsible adult fails to cooperate in the eligibility determination/re-determination process; or

6. the 421-CMO enrollee is admitted to an ICF/IID, nursing facility, or hospital with the intent to not return to 421-CMO services;

a. the enrollee is deemed to intend to return to 421-CMO services when documentation is received from the treating physician that the admission is temporary and shall not exceed ninety (90) days;

b. the enrollee will be discharged from 421-CMO on the ninety-first (91st) day after admission if the enrollee is still in the ICF/IID, nursing facility, or hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1678 (December 2020).

§8107. Allocation of Act 421 Children's Medicaid Option Opportunities

A. The Act 421 Children's Medicaid Option request for services registry, hereafter referred to as the 421-CMO registry, shall be used to identify persons who meet ICF/IID, nursing facility, or hospital level of care who are waiting for a 421-CMO program slot. Individuals who are found eligible and who request 421-CMO program services will be added to the 421-CMO registry. Funded 421-CMO program slots will be offered in accordance with this Subpart.

B. Initial Registration

1. There will be an initial registration period lasting one month, during which time registration will occur in two pathways:

a. Online registration forms will be taken from individuals who are not currently on the intellectual/developmental disabilities (I/DD) request for services registry or otherwise enrolled in Medicaid.

b. Children 18 years of age and under (under 19) who are on the I/DD request for services registry and are not currently enrolled in Medicaid or CHIP will be automatically registered for participation.

i. Individuals receiving automatic placement on the 421-CMO registry will receive a preprinted mailed form explaining the 421-CMO program and that they are automatically registered. The form will provide them with the opportunity to opt out of participation, and if they do not opt out, attest to prioritization needs per the process set forth in this Subpart.

2. LDH will create a numerically ordered 421-CMO registry based on individuals that registered during the initial registration period, placing them in random order.

3. Individuals registered during the initial registration period will receive 421-CMO program offers according to the prioritization process established in this Subpart first. Once priority offers are complete, 421-CMO program offers will then be made in numeric order of the 421-CMO registry.

4. Individuals who do not receive 421-CMO program offers will remain on the 421-CMO registry in the numeric order assigned, with a protected registry date corresponding to the close of the initial registration period.

C. Ongoing Registration. After the initial registration period and slot allocation, subsequent registrants for the 421-CMO program will be assigned a 421-CMO registry date based on the date on which they register and will receive an offer on a first-come, first-served basis unless otherwise prioritized as provided for in this Subpart. 421-CMO program offers will be made upon availability.

D. Prioritization

1. In order to ensure individuals with the most urgent needs receive services, LDH will prioritize 421-CMO program offers to individuals who meet either of the following criteria:

a. The individual has been institutionalized in an ICF/IID, nursing facility, or hospital for 30 of the preceding 90 days. Institutional days do not have to be consecutive.

b. On three or more separate occasions in the preceding 90 days, the individual has been admitted to an ICF/IID, nursing facility, or hospital and remained institutionalized for at least 24 hours.

2. An individual newly registering for 421-CMO program during ongoing registration may request and, if the individual qualifies, receive prioritization in order to receive the next available 421-CMO program offer. In addition, at any time an individual currently on the 421-CMO registry may request and, if the individual qualifies, receive prioritization.

3. Prioritization will be considered valid for a period of 180 days from the date that prioritization is approved while waiting for a 421-CMO program offer. At the expiration of the 180 days, if no 421-CMO program offer has been made, the individual loses prioritization but retains his or her original protected registry date for purposes of receiving a 421-CMO program offer.

a. If an individual's priority period has expired with no 421-CMO program offer available during that time period, he or she may request to requalify for prioritization.

i. If the individual qualifies without a break in the two priority periods (they are consecutive), he/she shall retain the original prioritization date.

ii. If the individual qualifies with a break in the priority periods, he/she shall receive a new prioritization date.

b. There is no limit on the number of times an individual may qualify for prioritization prior to receiving a 421-CMO program offer.

c. If more than one individual has received prioritization at one time, the next available 421-CMO program offer will be made to the individual with the earliest prioritization date.

4. Once enrolled in the 421-CMO program, enrollees will not be required to demonstrate ongoing need for prioritization. Prioritization is only a method of fast-tracking initial entry into the 421-CMO program for families with the highest urgency of need.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1678 (December 2020).

§8109. Eligibility and Enrollment

A. Upon extension of a 421-CMO program offer to an individual, the individual will need to establish programmatic and clinical eligibility by showing he or she meets all eligibility criteria. When eligibility is determined, the individual will be enrolled in the 421-CMO program and with a health and dental plan of their choice.

B. Louisiana Health Insurance Premium Payment Program (LaHIPP)

1. Enrollees in the 421-CMO program shall be enrolled in LaHIPP when cost-effective health plans are available through the individual's employer or a responsible party's employer-based health plan or other health insurance if the individual is enrolled or eligible for such a health plan.

2. All requirements and coverage through the LaHIPP program shall follow the provisions set forth in LAC 50:III.2311 except that 421-CMO program enrollees enrolled in LaHIPP shall receive their Medicaid benefits through managed care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1679 (December 2020).

Chapter 83. Services

§8301. Covered Services

A. The coverage of 421-CMO services under the scope of this demonstration are all services offered under the Louisiana Medicaid State Plan.

B. All 421-CMO services must be medically necessary. The medical necessity for services shall be determined by a licensed professional or physician who is acting within the scope of his/her professional license and applicable state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1679 (December 2020).

§8303. Service Delivery

A. Louisiana's Act 421 Children's Medicaid Option delivery system is based on an integrated managed care model for physical and behavioral health services. Under this demonstration, Healthy Louisiana will continue to operate as approved in Section 1932(a) state plan authority for managed care and concurrent 1915(b) demonstration.

B. Enrollees in the 421-CMO program shall be mandatorily enrolled in Healthy Louisiana and in a dental benefits prepaid ambulatory health plan. They shall have the opportunity to choose a health and dental plan upon application. If they do not choose a plan, one will be automatically assigned to them upon enrollment per the current methodology outlined in the Medicaid State Plan.

C. Enrollees shall be designated as a special health care needs group, entitling recipients to receive case management and enhanced care coordination through their managed care plan.

D. All of the covered services under the 421-CMO program shall be delivered in accordance with the Medicaid State Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1679 (December 2020).

Chapter 85. Reimbursement

§8501. Reimbursement Methodology

A. For 421-CMO program enrollees, LDH or its fiscal intermediary shall make monthly capitation payments to the managed care organizations (MCOs) and dental benefits prepaid ambulatory health plans for the provision of all covered services. The capitation rates paid to the MCOs and dental benefits prepaid ambulatory health plans shall be actuarially sound rates, and the MCOs and dental benefits prepaid ambulatory health plans will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid fee-for-service fee schedule on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:977.21-977.25, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1680 (December 2020).

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

Dr. Courtney N. Phillips
Secretary

2012#051

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Adult Mental Health Services—Peer Support Services
(LAC 50:XXXIII.6307)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.6307 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 7. Adult Mental Health Services

Chapter 63. Services

§6307. Covered Services

A. The following mental health services shall be reimbursed under the Medicaid Program:

- 1. ...
- 2. rehabilitation services, including community psychiatric support and treatment (CPST), psychosocial rehabilitation (PSR), and peer support services; and

A.3. - B.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1015 (June 2018), LR 46:795 (June 2020), repromulgated LR 46:952 (July 2020), amended LR 46:1680 (December 2020).

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

Dr. Courtney N. Phillips

2012#047

RULE

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
New Opportunities Waiver
Individual and Family Support Payments
(LAC 50:XXI.13701,13902,13927,13933, and 14301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.13701, §13927, and §14301, adopted §13902, and repealed §13933 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

**Part XXI. Home and Community-Based Services
Waivers**

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13701. Introduction

A. - D. ...

E. Only the following NOW services shall be provided for, or billed for, during the same hours on the same day as any other NOW service:

- 1. ...
- 2. supported independent living; and
- 3. skilled nursing services.
 - a. Skilled nursing services may only be provided with:
 - i. substitute family care;
 - ii. supported independent living;
 - iii. day habilitation;
 - iv. supported employment (all three modules);
 - and/or
 - v. prevocational services
- 4. - 4.e. Repealed.

F. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1647 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:68 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:50 (January 2018), LR 45:42 (January 2019), LR 46:1680 (December 2020).

Chapter 139. Covered Services

§13902 Individual and Family Support Supplemental Payments

A. Supplemental payments will be made to licensed HCBS providers with a PCA module who support individuals currently receiving qualified waiver services who have complex medical and/or behavioral needs and are at a higher risk of institutionalization.

1. The integration of the supplemental payment provides additional funding to licensed HCBS providers with a PCA module who provide supports that focus on the prevention of deteriorating or worsening medical or behavioral conditions for individuals with complex needs.

2. The provider will be required to complete a screening tool and submit initial documentation as outlined in the program manual prior to qualifying for any supplemental payment. The supplemental payment will be re-evaluated annually to determine ongoing need per program requirements.

3. The PCA providers must be licensed home and community-based services (HCBS) providers with a personal care attendant module in order to receive the supplemental payment, in addition to the criteria listed in §13902 B.

B. Determination Process: A PCA provider can qualify for a supplemental payment if the individual currently receiving qualified waiver services has a complex medical and/or behavioral need.

1. Complex Medical

a. Individuals must require at least two of the following non-complex tasks delegated by a registered nurse to a non-licensed direct service worker:

i. suctioning of a clean, well-healed, uncomplicated mature tracheostomy in an individual who has no cardiopulmonary problems and is able to cooperate with the person performing the suctioning (excludes deep suctioning);

ii. care of a mature tracheostomy site;

iii. removing/cleaning/replacing inner tracheostomy cannula for mature tracheostomy;

iv. providing routine nutrition, hydration or medication through an established gastrostomy or jejunostomy tube (excludes nasogastric tube);

v. clean intermittent urinary catheterization;

vi. obtaining a urinary specimen from a port of an indwelling urinary catheter;

vii. changing a colostomy appliance;

viii. ensuring proper placement of nasal cannula (excludes initiation/changing of flow rate;

ix. capillary blood glucose testing;

x. simple wound care (including non-sterile/clean dressing removal/application); or

xi. other delegable non-complex tasks as approved by OCDD in accordance with LAC 48:1 Chapter 92 Subchapter D.

2. Behavioral

a. The individual meets two of the following items:

i. specific behavioral programming/procedures are required, or the individual receives behavioral health treatment/therapy and needs staff assistance on a daily basis to complete therapeutic homework or use skills/coping mechanisms being addressed in therapy;

ii. staff must sometimes intervene physically with the individual beyond a simple touch prompt or redirect, or the individual's environment must be carefully structured based on professionally driven guidance/assessment to avoid behavior problems or minimize symptoms; or

iii. a supervised period of time away, outside of the individual's weekly routine, such as work, school or participation in his/her community, is needed at least once per week; and

b. the individual requires one of the following due to the items listed in Subparagraph a.-a.iii above:

i. higher credentialed staff (college degree, specialized licensing, such as registered behavior technician [RBT], applied behavior analysis [ABA], etc.), who have advanced behavioral training for working with individuals with severe behavioral health symptoms or significant experience working with this population; or

ii. the need for higher qualified supervision of the direct support of staff (master's degree, additional certification, such as board certified behavior analyst [BCBA], etc.).

C. The supplemental payment is not allowed for waiver participants who do not receive individual and family support (IFS) services.

D. The supplemental payment may not be approved for waiver participants receiving IFS hours in addition to 12 or more hours of skilled nursing per day.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 46:1681 (December 2020).

§13927. Skilled Nursing Services

A. - B. ...

C. Provider Qualifications. The provider must be licensed by the Department of Health as a home health agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1651 (August 2007), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:77 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:56 (January 2018), LR 46:1681 (December 2020).

§13933 Complex Care

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:43 (January 2019), repealed LR 46:1682 (December 2020).

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. - B.3. ...

C. The following services are paid through a per diem:

1.- 4. ...

5. individual and family support supplemental payment.

D. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020).

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

Dr. Courtney N. Phillips
Secretary

2012#061

RULE

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

Hospital Licensing Standards
(LAC 48:I.9301)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:II.9301 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9301. Purpose

A. - B. ...

C. Primarily Engaged

1. Except as provided in §9301.C.2, hospitals shall be *primarily engaged*, as defined by this Rule and determined by the Department of Health, in providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. - b. ...

2. Exemptions. The following licensed hospitals are not subject to the primarily engaged provisions and/or requirements of this Chapter:

a. a licensed hospital designated as a psychiatric hospital or a critical access hospital as defined by the Code of Federal Regulations;

b. a licensed hospital designated as a rural hospital as defined by R.S. 40:1189.3; and

c. a licensed hospital currently certified and enrolled as a Medicare/Medicaid certified hospital which has not been determined out of compliance with the federal definition of *primarily engaged*; if a hospital is currently Medicare/Medicaid certified, and has been determined to be currently meeting the federal definition of *primarily engaged*, it shall be exempt from compliance with the following provisions in this section regarding primarily engaged.

C.3. - E.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1474 (October 2019), LR 46:1682 (December 2020).

Dr. Courtney N. Phillips
Secretary

2012#054

RULE

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

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Adjustment
(LAC 50:V.Chapters 5 and 9)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.Chapters 5 and 9 in the

Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 5. State Hospitals

Subchapter B. Reimbursement Methodology

§553. Inpatient Psychiatric Services for State Owned Hospitals

A. - A.1. ...

B. Effective for dates of service on or after January 1, 2021, the prospective per diem rate paid to state owned free-standing psychiatric hospitals, and distinct part psychiatric units within state owned acute care hospitals, shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:1770 (December 2019), amended LR 46:1683 (December 2020).

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - W.2. ...

X. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to acute care hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

1. Small rural hospitals as defined in R.S. 40:1300 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

2. Carve-out specialty units, nursery boarder, and well-baby services are included in these rate increases.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:963 (May 2017), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1389 (July 2017), repromulgated LR 43:1757 (September 2017), amended LR 43:2533 (December 2017), repromulgated LR 44:1445 (August 2018), amended LR 45:1770 (December 2019), LR 46:1683 (December 2020).

§955. Long-Term Hospitals

A. - M. ...

N. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to long-term acute hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2533 (December 2017), repromulgated LR 44:1445 (August 2018), amended LR 45:1770 (December 2019), LR 46:1683 (December 2020).

§959. Inpatient Psychiatric Hospital Services

A. - O.2. ...

P. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

1. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2533 (December 2017), amended LR 44:1446 (August 2018), LR 45:1771 (December 2019), LR 46:1683 (December 2020).

§961. Inpatient Rehabilitation Hospital Services

A. - B.4. ...

5. Effective for dates of service on or after January 1, 2021, the inpatient per diem rate paid to non-rural, non-state free-standing rehabilitation hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2533 (December 2017), amended LR 44:1446 (August 2018), LR 45:1771 (December 2019), LR 46:1683 (December 2020).

§967. Children's Specialty Hospitals

A. - O. ...

P. Effective for dates of service on or after January 1, 2021, the inpatient per diem rates paid to children's specialty hospitals for acute, neonatal intensive care units, pediatric intensive care units and burn units' services shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

Q. Effective for dates of service on or after January 1, 2021, the inpatient per diem rates paid to distinct part psychiatric units within children's specialty hospitals shall be increased by 3.2 percent of the per diem rate on file as of December 31, 2020.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 37:2162, 2162 (July 2011), LR 38:2773 (November 2012), LR 39:3097 (November 2013), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended LR 40:1941 (October 2014), LR 42:275 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 45:1771 (December 2019), LR 46:1683 (December 2020).

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

Dr. Courtney N. Phillips
Secretary

2012#056

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities—Optional State Assessment
(LAC 50:II.10123 and 20001)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.10123 and 20001 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter D. Resident Care Services

§10123. Comprehensive Assessment

A. - G.4.c. ...

H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 46:695 (May 2020), LR 46:1684 (December 2020).

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. Definitions

* * *

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 nursing facility providers certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within nursing facility providers, between nursing facility providers, and

between nursing facility providers and outside agencies. The Louisiana system will employ the current required MDS assessment as approved by the Centers for Medicare and Medicaid Services (CMS).

* * *

B. - C.7. ...

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), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:2187 (November 2017), LR 46:695 (May 2020), LR 46:1684 (December 2020).

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

Dr. Courtney N. Phillips
Secretary

2012#060

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology
(LAC 50:II.20005)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20005. Rate Determination

A. - D.3.b. ...

i. Each nursing facility's actual square footage per bed is multiplied by the January 1, 2003 new value per square foot, plus \$9.75 for land. The square footage used shall not be less than 300 square feet or more than 450 square feet per licensed bed. If 15 percent or more of the nursing facility's licensed beds are private rooms compared to the total licensed beds of the nursing facility, then the maximum square footage used shall not be more than 550 square feet per licensed bed. To this value add the product of total licensed beds times \$4,000 for equipment, sum this amount and trend it forward using the capital index. This trended value shall be depreciated, except for the portion related to land, at 1.25 percent per year according to the

weighted age of the facility. Bed additions, replacements and renovations shall lower the weighted age of the facility. The maximum age of a nursing facility shall be 30 years. Therefore, nursing facilities shall not be depreciated to an amount less than 62.5 percent or [100 percent minus (1.25 percent*30)] of the new bed value. There shall be no recapture of depreciation.

D.3.b.ii. – Q. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:82 (January 2017), LR 43:526 (March 2017), LR 46:1684 (December 2020).

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

Dr. Courtney N. Phillips
Secretary

2012#059

RULE

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Adjustment
(LAC 50:V.5313, 5319, and 5715)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.5313, §5319, and §5715 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - L.1. ...

M. Effective for dates of service on or after January 1, 2021, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 3.2 percent of the rates on file as of December 31, 2020.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2534 (December 2017), LR 44:2166 (December 2018), LR 45:1773 (December 2019), LR 46:1685 (December 2020).

§5319. State-Owned Hospitals

A. - C. ...

D. Effective for dates of services on or after January 1, 2021, the reimbursement rates paid to state-owned hospitals for outpatient surgery shall be increased by 3.2 percent of the fee schedule rates on file as of December 31, 2020.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2773 (November 2012), amended LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1773 (December 2019), LR 46:1685 (December 2020).

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5715. State-Owned Hospitals

A. - B. ...

C. Effective for dates of service on or after January 1, 2021, the reimbursement rates paid to state-owned hospitals for outpatient laboratory services shall be reimbursed at 100 per cent of the current Medicare clinical laboratory fee schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 Service Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014), LR 46:1685 (December 2020).

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

Dr. Courtney N. Phillips
Secretary

2012#046

RULE

Department of Health Licensed Professional Counselors Board of Examiners

Endorsement
(LAC 46:LX.3701)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et

seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has amended endorsement testing requirements. The LPCBE approved the Association of Marital and Family Therapy Regulatory Board's examination in marital and family therapy or an examination that would be substantially equivalent, as determined by the Marriage and Family Therapy Advisory Committee.

The Licensed Professional Counselors Board of Examiners has amended Chapter 37 for publication in the December 20, 2020 edition of the *Louisiana Register*. This Rule is here adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Professional Counselors

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists

§3701. Endorsement

A. Upon recommendation of the board and Marriage and Family Therapy Advisory Committee, the board shall issue a license to any person who has been licensed as a marriage and family therapist and has actively practiced marriage and family therapy for at least five years in another jurisdiction. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. An applicant must submit documentation of at least 40 CEHs, in accordance with the requirements listed in Chapter 35, within two years of the date of application for licensure endorsement in Louisiana. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

B. Upon recommendation of the board and marriage and family therapy advisory committee, the board shall issue a license to any person licensed as a licensed as a marriage and family therapist for less than five years in another jurisdiction whose requirements for the license are substantially equivalent to or exceed the requirements of the state of Louisiana. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. Applicants must also provide proof of having passed the Association of Marital and Family Therapy Regulatory Board's examination in marital and family therapy or an examination that would be substantially equivalent, as determined by the Marriage and Family Therapy Advisory Committee. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003), amended LR 39:1806 (July 2013), LR 41:752 (April 2015), LR 46:1686 (December 2020).

Jamie S. Doming
Executive Director

2012#005

RULE

Department of Health Licensed Professional Counselors Board of Examiners

Teletherapy Guidelines
(LAC 46:LX.503 and 505)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has amended teletherapy regulatory rules.

The Rule changes benefit licensees, provisional licensees and their supervising practitioners. Provisional licensees will no longer be required to complete one year of practice before engaging in telehealth. In addition, the requirements for teletherapy continuing education hours decreases and allows for all supervision hours to be completed via HIPAA compliant online platforms.

The Licensed Professional Counselors Board of Examiners has repealed Chapter 5 §503 definition for *Internet Counseling* and amended Chapter 5 §505 for publication in the December 20, 2020 edition of the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Professional Counselors

Subpart 1. Licensed Professional Counselors

§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors

A. ...

* * *

Practice of Mental Health Counseling/Psychotherapy—...

a. - g. ...

h. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:757 (June 2019), LR 46:1686 (December 2020).

**§505. Teletherapy Guidelines for Licensees
(Formerly Diagnosing for Serious Mental
Illnesses)**

A. - D. ...

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. Repealed.
4. The licensee must complete:
 - a. professional training with a minimum of three asynchronous or synchronous clock hours in teletherapy. The training shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:
 - i. appropriateness of teletherapy;
 - ii. teletherapy theory and practice;
 - iii. theory integration;
 - iv. modes of delivery;
 - v. risk management;
 - vi. managing emergencies;
 - vii. legal/ethical issues.
 - viii. HIPAA compliance

E.5. - J. ...

K. *Telesupervision* is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S. 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. One hundred percent of total supervision hours may be used within a telesupervision format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (March 2019), amended LR 46:1687 (December 2020).

Jamie S. Doming
Executive Director

2012#004

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 30—Certificates of Insurance Coverage
(LAC 37:XIII.8101 and 8102)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 30. This amendment has been promulgated in order to provide clarification regarding certificates of insurance coverage. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 81. Regulation 30—Certificates of Insurance
Coverage**

§8101. Certificates of Insurance

A. It has come to the attention of this department that certificates of insurance for automobile and general liability insurance are being issued by companies or their agents. Certificates of insurance are documents, including electronic records, that many large corporations require persons or contractors employed by them to furnish to prove that they have insurance.

B. Some of these certificates purport to alter, amend, or extend the coverage provided by the referenced insurance policy in violation of R.S. 22:890.

C. Therefore, in order to avoid any misunderstanding of the effect of any certificate of insurance prepared and issued by an insurance company or its agent, any such certificate must contain the following or similar language:

This certificate of insurance neither affirmatively nor negatively alters, amends, or extends the coverage afforded by Policy Number _____ issued by _____.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:890.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 23, 1969, amended LR 46:1687 (December 2020).

§8102. Effective Date

A. Regulation 30, as amended, shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:890.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 23, 1969, amended LR 46:1687 (December 2020).

James J. Donelon
Commissioner

2012#003

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 45—Filing of Affirmative Action Plans
(LAC 37:XIII.Chapter 17)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance has amended Regulation 45 for the purpose of implementing the provisions of Act No. 274 of the 2015 Regular Session of the Louisiana State Legislature that reorganized and renamed several divisions within the Louisiana Department of Insurance, including the Division of Minority Affairs, which was renamed the of Division of Diversity and Opportunity. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 17. Regulation Number 45—Filing of
Affirmative Action Plans**

§1701. Purpose

A. The purpose of this regulation is to implement R.S. 22:33(A)(1), which requires an insurer to file an affirmative action plan upon the violation of a cease and desist order issued by the commissioner after hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:1688 (December 2020).

§1703. Applicability and Scope

A. This regulation applies to any insurer that is called for hearing before the commissioner for violating Chapter 1, Part I, Subpart C of the Insurance Code (Equal Opportunity in Insurance) and found to be in violation of a cease and desist order issued in accordance with the provisions of R.S. 22:33(A). It sets forth the minimum content and procedures for the filing of an affirmative action plan by an insurer who violates Chapter 1, Part I, Subpart C of the Insurance Code, and who then violates a cease and desist order issued by the commissioner after hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:1688 (December 2020).

§1705. Content and Procedure

A. The commissioner shall notify an insurer of its violation of a cease and desist order issued pursuant to Chapter 1, Part I, Subpart C of the Insurance Code by certified U.S. mail, return receipt requested. Said notification shall also direct the insurer to file an affirmative action plan.

B. ...

C. The insurer shall file its plan by means of the U.S. mail, and it shall contain the minimum requirements stated in R.S. 22:33(C)(4)(a) and (b).

D. The insurer shall address the plan to the attention of the Division of Diversity and Opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:1688 (December 2020).

§1707. Effective Date

A. This regulation shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:1688 (December 2020).

James J. Donelon
Commissioner

2012#002

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

**Inspections of Facilities
(LAC 42:III.2117)**

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., has amended LAC 42:III.2117, Certification Required, Riverboat Only. This rule change clarifies practices already required to take place in the industry and creates uniformity. The rule change provides for the process of inspections of facilities. This Rule is hereby adopted on the day of promulgation.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 21. Licenses and Permits

§2117. Certification Required, Riverboat Only

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

3. If operating in a facility, that the facility has a valid certificate of compliance issued by the board.

a. To satisfy this requirement, the facility must satisfy the applicable provisions of the National Fire Protection Association Life Safety Code* and the International Building Code as adopted in the state of Louisiana, pass inspection with the state fire marshal, satisfy local and state building codes and laws, and be issued a certificate of occupancy.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1612 (July 2012), amended LR 40:1380 (July 2014), LR 44:2216 (December 2018), LR 46:1688 (December 2020).

Michael Noel
Chairman

2012#016

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Child Support Non-Payment Suspension
(LAC 55:III.114)**

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., and pursuant to R.S. 32:432, the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, adopts a new section, §114, to provide for electronic reporting of an order of suspension for non-payment of child support from the Department of Children and Family Services. This proposed Rule is hereby adopted and effective on December 20, 2020.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

§114. Suspension or Denial of Driving Privileges for Failure to Pay Child Support

A. The Office of Motor Vehicles will suspend the driver's license of any person that fails to pay child support upon receipt of a court order or upon notification from the Department of Children and Family Services.

B. Upon receipt of notification the Office of Motor Vehicles will add an indefinite suspension to the driver's license record unless the order of suspension issued by the court specifies a specific time period as provided in R.S. 9:315.32(A)(1)(b). In case where a specific time period has not been specified by the court, the driver's license will remain suspended until the Office of Motor Vehicles receives:

1. an order or partial compliance is received from the court and authorizes the issuance of a temporary operator license or a partial release compliance certificate is received from the Department of Children and Family Services.

C. The reinstatement fee established in R.S. 32:414(H) shall be paid prior to any reinstatement.

D. Electronic Reporting Requirements

1. The Department of Children and Family Services will electronically report orders of noncompliance, support order compliance and partial compliance releases to the Office of Motor Vehicles through secure file transfer. The file transfer shall be in the format provided by the Office of Technology Services.

2. The Office of Motor Vehicles through the Office of Technology Services will add the orders of noncompliance, support order compliance and partial compliance releases to the appropriate driver's license record.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and pursuant to R.S. 32:432.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 46:1689 (December 2020).

Karen G. St. Germain
Commissioner

2012#023

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Rulemaking Petitions (LAC 55:III.Chapter 6)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, adopted a rule outlining the process for considering rulemaking petitions. These Sections are new and are intended to be adopted and effective December 20, 2020. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 6. Rulemaking Petitions

§601. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Office of Motor Vehicles for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to Department of Public Safety, Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70896, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;
2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;
3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;
4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;
5. a copy of each and every document upon which the petitioner bases the petitioner's request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency;
6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the Department of Public Safety, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles LR 46:1689 (December 2020).

§603. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the OMV Commissioner shall forward the petition to his agency designee. The agency designee shall review the petition for completeness pursuant to the requirements listed in LAC 55:

III:601. B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the OMV Commissioner or his agency designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the OMV Commissioner or his agency designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 46:1689 (December 2020).

Karen G. St. Germain
Commissioner

2012#027

RULE

Department of Transportation and Development Office of the Secretary

Transportation Network Companies (LAC 70:IX.Chapter 50)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in Act 286 of the 2019 Regular Session, the Department of Transportation and Development, Office of the Secretary, has amended Part IX, Subpart B, Chapter 50, of Title 70 entitled "Transportation Network Companies." This Rule establishes a classification of carriers and provides for department regulation of Transportation Network Companies, drivers, and local governments. The Rule further establishes a permit procedure for Transportation Network Companies (TNC), TNC and driver responsibilities; prohibitions on local governments; provides requirements and procedures for an audit of a company by the department; authorizes the department to inspect records held by the company; and authorizes a per trip fee for intrastate prearranged rides. This Rule is hereby adopted on the day of promulgation.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part IX. Transportation

Subpart B. Network

Chapter 50. Transportation Network Companies

§5001. Authority

A. The purpose of this regulation is to provide uniform rules, regulations and procedures to govern Transportation Network Companies (TNC), its drivers and vehicles throughout the state in order to protect and promote the safety and welfare of the residents of Louisiana.

B. Nothing in these rules shall exempt any Transportation Network Company or participating driver

from complying with all applicable laws; and municipal and parochial ordinances relating to the ownership, registration, and operation of automobiles in this state including those provided for Title 45 Part C of the Transportation Network Company Motor Vehicle Responsibility Law as provided for in R.S. 45:201.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1690 (December 2020).

§5003. Application and Scope

A. The following rules and regulations are promulgated in accordance and under the authority of the Secretary of the Department of Transportation and Development as afforded and designated by Act 286, Regular Session 2019, R.S. 48:2191, et seq., R.S. 45:201.1 et seq., and R.S. 36:504.

B. These rules shall apply to Transportation Network Companies, its drivers and local governments.

C. Any previous rules promulgated in association or relative to Transportation Network Companies are repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1690 (December 2020).

§5005. Limitations of Scope

A. Nothing in this Section shall be construed to prohibit the state from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding the sale, distribution, repair, or service of vehicles pursuant to Title 32 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1690 (December 2020).

§5007. Definitions

A. The following terms, as used in this Chapter, shall have the meanings ascribed to them in this Section, except where a different meaning is expressly stated or clearly indicated by context.

Bodily Injury—claims for general and special damages for personal injury arising under Civil Code Article 2315.

Department—the Louisiana Department of Transportation and Development.

Digital Network—any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

Gross Trip Fare—the base fare plus any time or distance charges, excluding any additional charges such as airport or venue fees.

Intrastate Prearranged Ride—any prearranged ride, as provided for in this Section, originating within the jurisdiction of the local governmental subdivision.

Local Governmental Subdivision—any parish or municipality as defined in Article VI, Section 44(1) of the Constitution of Louisiana.

Personal Vehicle—a vehicle that is used by a transportation network company driver and is owned, leased,

or otherwise authorized for use by the transportation network company driver.

a. A personal vehicle is not a vehicle subject to Parts A and B of the Motor Carrier law as provided for in R.S. 45:161 et seq., or engaged solely in interstate commerce.

Prearranged Ride—the provision of transportation by a driver to a rider that commences when a driver accepts a ride requested by a person through a digital network controlled by a transportation network company, continues during the driver transporting a requesting rider, and ends when the last requesting rider departs from the personal vehicle.

a. A prearranged ride does not include shared expense van pool services, as defined pursuant to R.S. 45:162(18), shared expense car pool services, as defined pursuant to R.S. 45:162(1), or transportation provided using a vehicle subject to Part A or B of the Motor Carrier law as provided for in R.S. 45:161 et seq. or engaged solely in interstate commerce.

Pre-Trip Acceptance Period—any period of time during which a driver is logged on to the transportation network company's digital network and is available to receive transportation requests, but is not engaged in an intrastate prearranged ride as defined in Paragraph 5 of this Section.

Transportation Network Company or Company—

a. a person, whether natural or juridical, that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides;

b. or a person, whether natural or juridical, that provides a technology platform to a transportation network company rider that enables the transportation network company rider to schedule an intrastate prearranged ride.

Transportation Network Company Driver or Driver—

a. a person who receives connections to potential passengers; and

b. related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

c. who uses a personal vehicle to offer or provide a prearranged ride to persons upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

Transportation Network Company Rider or Rider—a person who uses a transportation network company's digital network to connect with a transportation network driver who provides intrastate prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

Transportation Network Company Vehicle or Vehicle—has the same meaning as personal vehicle as provided for in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1690 (December 2020).

§5009. Transportation Network Company Permits

A. A person shall not operate a company in the state of Louisiana without first submitting and obtaining an approved permit from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1691 (December 2020).

§5011. Permit Application

A. Permit applications shall be submitted to the Office of the Secretary, of the agency at least 30 days prior to planned operations within the state of Louisiana.

B. Upon filing an application, a company shall be required to provide the department with proof of the following items:

1. certificate of insurance verifying compliance with R.S. 45:201.6 and listing the department as a certificate holder;

2. service of process. A company shall maintain an agent for service of process in the state of Louisiana;

3. nondiscrimination policies; accessibility:

a. the company shall provide a nondiscrimination policy in compliance with all applicable laws regarding nondiscrimination against drivers, riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity and shall inform drivers of such policy;

b. the company shall comply with all applicable non-discrimination laws with respect to contracting with drivers;

c. a policy indicating drivers shall comply with all applicable nondiscrimination laws;

d. a policy indicating drivers shall comply with all applicable laws relating to transporting service animals;

4. zero tolerance policy addressing the use of drugs or alcohol while a driver is providing prearranged rides or is logged into the company's digital network, regardless of whether the driver is providing prearranged rides:

a. the company shall provide notice of this policy on its website as well as procedures to report a rider's complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the prearranged ride;

b. upon receipt of a rider's complaint alleging a violation of the zero tolerance policy, the company shall immediately suspend the alleged driver's ability to accept trip requests through the company's digital network and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation;

c. records relevant to this policy shall be maintained for two years from the date of the complaint;

5. fare transparency the company must provide proof that one of the two options are provided to riders:

a. if a fare is collected from a rider, the company discloses to the rider the fare or fare calculation method located on its website or within the online-enabled technology application service prior to the start of the prearranged ride;

b. if the fare is not disclosed to the rider prior to the beginning of the prearranged ride, the rider shall have the option to receive an estimated fare before the start of the prearranged ride;

6. the company shall have a policy and the infrastructure in place to perform the necessary actions:

a. the company's digital network displays a picture of the driver and the license plate number of the motor

vehicle used for providing the prearranged ride before the rider enters the driver's vehicle;

b. at the request of a rider, a driver shall present his physical license or digitized driver's license to the rider prior to the start of each prearranged ride;

c. transmit an electronic receipt to the rider on behalf of the driver which include all of the following:

- i. the origin and destination of the trip;
- ii. the duration and distance of the trip;
- iii. the total fare paid for the trip.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1691 (December 2020).

§5013. Transportation Network Company Responsibilities

A. TNC shall require drivers to operate and maintain the vehicle in accordance with all motor vehicle laws of the state of Louisiana including but not limited to R.S. 32:1301 et. seq., R.S. 32:318, R.S. 32:327, R.S. 45:201.1 et seq.

B. Before an individual is authorized to accept trip requests through a transportation network company's digital network, the company shall require the driver and the drivers' vehicle to comply with all laws of the state of Louisiana including all motor vehicle laws pertaining to vehicles, inspections, and criminal laws.

1. The individual shall submit an application to the company, which includes information regarding his

- a. address;
- b. age;
- c. driver's license;
- d. motor vehicle registration;
- e. insurance;
- f. state vehicle inspection; and
- g. any other information required by the company or imposed by the department.

2. The company or a third party shall conduct a local and national criminal background check for each applicant that includes the following:

a. a multi-state and multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation of any records through a primary source search;

b. a search of the national sex offender public website maintained by the United States Department of Justice.

3. The company or a third party shall obtain and review a driving history research report for each applicant.

C. The company or a third party shall conduct the background check and driving history research report set forth in Paragraphs A.2 and 3 of this Section at least once every two years.

D. The company shall not authorize an individual to act as a driver if the individual's initial driving report reveals the individual received more than three moving violations within the three-year period prior to applying to the company; or any subsequent annual driving history reveals more than three moving violations within a three-year period.

E. The company shall not authorize an individual to act as a driver if the individual's initial background check or any subsequent background check reveals the individual:

1. has had more than one of the following violations within the three-year period prior to applying to the company:

a. flight from an officer or aggravated flight from an officer as provided for in R.S. 14:108.1;

b. reckless operation of a vehicle as provided for in R.S. 14:99;

c. operating a vehicle while under suspension for certain prior offenses as provided for in R.S. 14:98.8;

2. has been convicted, within the past seven years, of:

a. any enumerated felony as provided for in Title 14 of the Louisiana Revised Statutes of 1950, comprised of R.S. 14:1 through 601;

b. operating a vehicle while intoxicated as provided for in R.S. 14:98 through 98.4;

c. hit and run driving as provided for in R.S. 14:100;

d. any crime of violence as defined in R.S. 14:2(B);

3. is listed as an offender in the national sex offender public website maintained by the United States Department of Justice.

F. Companies are responsible for contacting and remitting fees to the proper agency or municipality in accordance with R.S. 48:2204

G. Before a driver is initially allowed to accept a request for a prearranged ride, the transportation network company shall maintain the requirements for insurance as provided for in R.S. 45:201.6 and shall disclose in writing to each transportation network company driver:

1. the insurance coverage, including the types of coverage and the limits for each coverage, which the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network;

2. that the transportation network company driver's own automobile insurance policy may or may not provide any coverage while the driver is logged on to the transportation network company's digital network during the pre-trip acceptance period or is engaged in a prearranged ride, depending on its terms;

3. to the extent that any agreement between a transportation network company and a driver or rider, or between a driver and a rider addresses liability, any provision that, in advance, excludes or limits the liability of one party for causing bodily injury to the other party is null;

4. any coverage that in advanced has been waived, excluded or limits liability of the company to the driver as provided for in R.S. 45:201.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1692 (December 2020).

§5015. Permit Renewal

A. Companies shall file an application for renewal annually with the Office of the Secretary of the Department of Transportation and Development.

1. A permit is considered valid until June 30, following the date of issue.

2. Renewal applications shall be submitted annually by July 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1692 (December 2020).

§5017. Suspension and Revocation of Permits

A. Permits may be suspended for a period of time specified by the department, or until the company is in compliance with the rules of the agency.

B. If the department finds a company non-compliant with the principles of public policy or any of the following, after notice to the TNC, the agency may revoke or suspend a company's permit to operate within the state:

1. failure to maintain the requirements of a permit;
2. failure to conduct or cooperate with an investigation of a complaint;
3. failure to comply with the requirements of an audit;
4. any other statute or rule violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1693 (December 2020).

§5019. Driver Responsibilities; Prohibitions

A. The driver for a TNC shall possess a valid driver's license and valid registration to operate a personal vehicle.

B. The driver shall possess a valid state approved vehicle inspection sticker to operate a motor vehicle used to provide prearranged rides.

C. A driver shall not be required to register the vehicle that the driver uses to provide prearranged rides as a commercial motor vehicle or a for hire vehicle.

D. A company or a driver shall not be considered a common carrier, contract carrier, or motor carrier, and shall not provide taxi or for hire vehicle service.

E. A driver shall not accept a trip for compensation other than a trip arranged through a company's digital network.

1. A dispute arising in this state involving the company, or a driver operating under the provisions of this Chapter, shall not be governed by the laws of another jurisdiction and shall not be resolved outside of the state, unless agreed to by all parties in writing after the dispute has arisen.

2. *Dispute* shall include but is not limited to a dispute involving liability arising from an alleged act or omission, a dispute involving interpretation of contractual terms or provisions, and a determination of rights, status, or other legal relations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1693 (December 2020).

§5021. Records Retention

A. The department shall have the right to audit and inspect the records that the company is required to maintain, including:

1. individual trip records for at least three years from the date each trip was provided;
2. individual records of drivers for at least three years after the date which a driver's relationship with the company has ended;
3. the company shall maintain records relevant to the enforcement of this requirement for a period of at least two

years from the date that a rider's complaint is received by the company;

4. complaints, specifically, but not limited to fares, discrimination, operating the vehicle while under the influence of a substance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1693 (December 2020).

§5023. Audit Procedures; Confidentiality of Records

A. The results of any audit will be reported to the Louisiana Legislative Auditor as required and in accordance with the DOTD's Internal Audit Charter and the guidelines established by the Louisiana Legislative Auditor.

1. Upon receiving notification of audit, the company shall provide the requested documents within 45 days.

2. Audit Notification

a. Prior to the audit the company shall receive notice of documents and records to provide to the department.

b. The audit shall be conducted to include the required records pertaining to 50 separate and distinct transportation network drivers.

c. If after initial review, the department has a reasonable basis to conclude the transportation network company is not in compliance with the requirement of this section, the department may conduct a supplemental audit of records with an additional selection of drivers.

d. The audit shall take place annually, unless the department has grounds to believe that additional audits are warranted, at a mutually agreed location in the state of Louisiana.

e. Any record furnished to the department may exclude information that would identify specific drivers or riders, unless the identity of a driver or rider is determined by the department to be relevant to the audit.

B. The governing body of a local governmental subdivision may request from the department a report on the results of the audit performed by the agency pursuant to Subsection A of this Section.

C. Failure to comply with Paragraphs A of this Section may result in the company's permit to operate within the state being suspended or revoked.

D. The Department of Revenue shall have the sole audit authority with respect to fees remitted by a company to a local governmental subdivision and the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1693 (December 2020).

§5025. Complaints and Investigation

A. Companies shall provide the department with a report of the number of safety complaints against drivers including type and region by parish or city annually.

1. Companies shall provide the department with any and all complaints regardless of the type of complaint, if requested by the department.

B. In response to a specific complaint against any driver or company, the department is authorized to inspect any and

all records held by the company that are deemed necessary by the department to investigate and resolve the complaint beyond the companies' initial investigation.

1. Companies shall make available to the department all documents, persons, records, and digital information requested, to investigate any complaint reported to the department relative to the company or behavior of a driver.

2. Failure to comply with an investigation or provide all requested records may result in the company's permit to operate within the state being suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1693 (December 2020).

§5027. Local Rules and Regulations

A. At least 30 days prior, local governmental subdivision shall provide written notice to the agency and each company permitted by the department in accordance with R.S. 48:2193,

1. of an initial hearing,
2. reading, or
3. consideration of an ordinance imposing a fee pursuant to R.S. 48:2204.

B. A local governmental subdivision shall also provide written notice within ten days of the passage of any ordinance imposing a fee.

C. A fee imposed pursuant to R.S. 48:2204 shall not go into effect until the first day of the month that is at least 30 days after passage of the ordinance imposing the fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1694 (December 2020).

§5029. Local Governmental Prohibitions

A. A local governmental subdivision shall not do any of the following:

1. impose a tax on, or require a license for, a company, a driver, or a vehicle if such tax or license relates to providing prearranged rides, except as provided in R.S. 48:2204 or Subsection D of this Section;

2. require a company or a driver to obtain a business license or any other type of similar authorization to operate within the jurisdiction;

3. subject a company, a driver, or a vehicle to any rate, entry, operation, or other requirement of the governing authority, except as provided in R.S. 48:2204 or Subsection D of this Section;

4. prohibit a driver with corresponding driver's license and license plate of any state from obtaining a Louisiana vehicle inspection, regardless of the state from which the license and license plate are issued.

B. With oversight from the department, local authorities shall have the option to work in concert with companies for the purpose of coordination of pick-up and drop-off zones regarding airports, large events and special events.

C. Local authorities have 90 days prior to the event to request a meeting of coordination from the department.

1. For the purposes of this Section, a *large event* means any event designated as SEAR-1, under the federal special event assessment rating system, or as a national special security event.

2. For the purposes of this Section *special events* means any event with an expected attendance of 25,000 people or more, occurring in that jurisdiction.

D. The provisions of this Section shall not prohibit:

1. an airport from charging pick-up fees for the use of the airport's facilities or designating locations for staging, pick-up, and other similar operations at the airport:

a. an airport pick-up fee is not a local fee subject to the provisions of R.S. 48:2204;

2. a police department of a local governmental subdivision from contracting with a company operating in the local governmental subdivision's jurisdiction for the purpose of coordination of pick-up and drop-off zones associated with large events occurring in that jurisdiction;

3. a contract under this Section:

a. shall not exclude any company holding a permit under R.S. 48:2193 from providing services at the event.

b. shall have comparable terms for each company, taxi cabs, limousines, or any other for-hire vehicles providing services.

c. shall not preclude the police department of a local governmental subdivision from enforcing traffic laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2205.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 46:1694 (December 2020).

Shawn D. Wilson, Ph.D.
Secretary

2012#043

RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Supervising Professionals
(LAC 46:LXI.2305)

Editor's Note: This Rule was originally promulgated in the October 20, 2020 *Louisiana Register* on pages 1397 and 1398. It is being repromulgated to correct a compilation error that did not incorporate changes made pursuant to R.S. 49:968(H)(2).

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.2305.

This is a technical revision of existing rules under which LAPELS operates. The revision clarifies the amount of time that certain licensed professionals must work for (and/or the amount of ownership interest that certain licensed professionals must have in) a licensed firm to be able to serve as the firm's supervising professional. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

**Part LXI. Professional Engineers and Land Surveyors
Chapter 23. Firms**

§2305. Supervising Professional

A.1. Each firm licensed with the board shall designate one or more supervising professionals. Each supervising professional shall be a licensed professional:

a. whose primary employment is with the firm, provided the supervising professional works for the firm for a 12-month average of at least 30 hours per week or 130 hours per month; or

b. whose employment is with the firm, provided the supervising professional has at least a 25 percent ownership interest in the firm.

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:2856 (December 2009), LR 38:1418 (June 2012), LR 44:623 (March 2018), LR 46:1398 (October 2020), repromulgated LR 46:1695 (December 2020).

Donna D. Sentell
Executive Director

2012#007

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

DROP Program (LAC 58:I.2713)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended a provision in Chapter 27 of Part I of LAC Title 58. The Rule is required to comply with changes in federal law made by the Secure Act, which became law in December of 2019. The Act changed the time when a Required Minimum Distribution ("RMD") must be made from Deferred Option Retirement Plan ("DROP") accounts of LASERS retirees. The age was moved from age 70 1/2 to age 72. Section 2713 conforms to that change. This Rule is hereby adopted upon promulgation.

Title 58

RETIREMENT

**Part I. Louisiana State Employees' Retirement System
Chapter 27. DROP Program**

Subchapter C. Withdrawal

§2713. Time for Disbursement

A. - B. ...

C. When a retiree reaches age 72, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009), LR 46:1695 (December 2012).

Cindy Rougeou
Executive Director

2012#012

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Examinations, Certifications, Licensing, and Fees
(LAC 7:XXIII.701 and 901)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3203 and R.S. 3:3251, notice is hereby given that the Department of Agriculture and Forestry (“Department”), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XXIII.701 and 901. The proposed amendment to LAC 7:XXIII.701 removes the requirement that applicants for the private applicator, commercial applicator, or pesticide salespersons examinations who fail to receive a passing score on an exam wait a minimum of 10 days before being eligible for re-examination. The requirement that no person shall be allowed to take a private applicator examination, commercial applicator examination, or pesticide salesperson examination more than three times in a 12-month period is also removed. Louisiana is the only state with restrictions on the time intervals between testing and limitations on the amount of re-testing permitted per year for private applicator, commercial applicator and salesperson examinations. These changes are being made to align with current practices of other states and the industry.

The proposed amendment to LAC 7:XXIII.901 is being made pursuant to the authority set forth in 3:3251, which allows the Commissioner to establish examination fees by rule in an amount not to exceed \$200. The proposed amendment to LAC 7:XXIII.901 increases the examination fees from \$25 to \$50 for commercial applicator examinations, pesticide salesperson examinations, and agricultural consultant examinations taken in Baton Rouge and examinations taken at meetings outside Baton Rouge. The proposed amendment also includes a \$50 fee to take the private applicator examination. Currently, there is no fee for the private applicator examination and Louisiana is the only state that does not charge a fee to take the private applicator examination. The proposed amendments to LAC 7:XXIII.901 ensures consistency of the examinations fees for all areas of Louisiana.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter A. Examinations

§701. Examinations of Private Applicators, Commercial Applicators, Pesticide Salespersons, and Agricultural Consultants

A. - C. ...

D. Each applicant for the agricultural consultant examination who fails to receive a passing score shall wait a

minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an agricultural consultant examination more than three times in a 12-month period.

F. Applicants who fail to receive a passing score on the private applicator examination, commercial applicator examination, or pesticide salesperson examination shall be eligible for re-examination after completing and submitting an application for retesting.

G. An applicant who took and did not pass an examination in this state under these standards shall not be permitted to receive certification in the occupation or category for which the examination was taken under a reciprocal agreement with another state.

H. All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

I. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination or using any written materials, electronic devices, or other means during an examination, which have not been authorized or allowed by the director or person administering the examination.

l.e. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:178 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:76 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 28:39 (January 2002), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 35:626 (April 2009), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 37:3471 (December 2011), LR 47:

Chapter 9. Fees

§901. Fees

A. Fees required under the Louisiana Pesticide Law to be adopted by regulation are established as the following.

Special Local Need Registration Application Fee	\$100
Examination Fees	
Private Applicator Exam	\$50
Commercial Applicator Exam	\$50 per category
Pesticide Salesperson Exam	\$50
Agricultural Consultant Exam	\$50 per category
Duplicate Licenses and/or Certification Cards	Same as Original
Requested Lists and Copies	Postage + minimum of \$1 or Postage + \$0.25 /page

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Commissioner, Advisory Commission on Pesticides, LR 30:197 (February 2004), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 37:3477 (December 2011), LR 47:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Kevin Wofford,

Director of the Advisory Commission on Pesticides, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 10th day of January, 2021.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Examinations, Certifications,
Licensing, and Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local government units. The proposed rule amends LAC 7:XXIII.901 that increases testing fees for commercial pesticide applicators, restricted use pesticide (RUP) salespersons, and agricultural consultants for exams as well as enacts testing fees for private pesticide applicator exams.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to increase state revenue collections by approximately \$26,025 annually. The estimated increase in revenue is based on the average number of pesticide exams administered annually by the Pesticide and Environmental Programs Division within the Louisiana Department of Agriculture and Forestry (LDAF) multiplied by the increased fee for each exam as follows: (1) \$15,100 for commercial applicators & RUP salespersons in Baton Rouge (604 exams x \$25 fee increase); \$10,600 for private applicators (212 exams x \$50 new fee); \$325 for agricultural consultants (13 exams x \$25 fee increase). The proposed rule amends LAC 7:XXIII.701 that is not anticipated to have any effect on revenue collections for state or local government entities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will increase the cost from \$25 to \$50 for applicants taking the commercial pesticide applicator, RUP salesperson, and agricultural consultant examinations at the Louisiana Department of Agriculture and Forestry (LDAF) headquarters in Baton Rouge. Also, applicants for private pesticide applicator will have a new examination fee of \$50.

The proposed rule may benefit applicants who fail to receive a passing score by removing re-testing waiting periods and limits on taking examinations. Louisiana is the only state with restrictions on the time intervals between testing and limitations on the amount of re-testing permitted per year for the private applicator, commercial applicator, and salesperson examinations. These changes are being made to align with the current practices of other states and the industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment to LAC 7:XXIII.701 may be beneficial to the applicant and industry in terms of employment by allowing opportunity to retest and pass an exam within a shorter period of time.

The proposed amendment to LAC 7:XXIII.901 has no direct effect on competition and employment.

Dane Morgan
Assistant Commissioner
2012#031

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Agricultural Chemistry and Seed Commission

Industrial Hemp
(LAC 7:XIII.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:1461 et seq., notice is hereby given that the Department of Agriculture and Forestry ("Department"), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XIII.1303, 1305, 1307, 1309, 1311, 1315, 1317, 1319, 1321, 1323, 1325, 1327, 1329, and 1335 of the Industrial Hemp Rules and Regulations. The proposed amendments to Section 1303, 1315, and 1321 are being made in accordance with Act 344 of the 2020 Regular Session, pertaining to recent changes in the Louisiana Industrial Hemp Law as it relates to the federally defined THC level for industrial hemp and criminal background checks. Among other items, the Department additionally proposes to make the following amendments to the rules and regulations: (i) defining and clarifying certain terms; (ii) making technical corrections; (iii) clarification and classification of persons in the employ of a licensee; and (iv) removing and amending specific reporting requirements.

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 13. Industrial Hemp

§1303 Definitions

A. - B. ...

Employee—any person working under the direct supervision of a licensee who performs services for wages or salary, and whose work the licensee has control over in respect to the work to be done and how it will be done.

Farm Service Agency ("FSA") Lot ID—a unique number generated by the USDA Farm Service Agency consisting of the farm number, tract number, field number, and subfield number.

Federally Defined THC Level for Hemp—the greater of the following:

- a. a delta-9-THC concentration of not more than three-tenths of a percent (0.3%) on a dry weight basis; or
b. the Acceptable Hemp THC Level as defined in 7 U.S.C. 1639o and 7 C.F.R. 990.3(3)

Independent Contractor—a person or business entity that provides services under a written contract or verbal agreement or is issued a 1099 tax form for the work performed.

Industrial Hemp—the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a THC

concentration of not more than the federally defined THC level for hemp.

Industrial Hemp Plant Parts—any floral buds, leaves, roots, seeds, stalks, or stems of the plant Cannabis sativa L. with a THC concentration of not more than the federally defined THC level for hemp.

Key Participants—members of a limited liability company, a sole proprietor, partners in a partnership, and incorporators or directors of a corporation. A key participant also includes persons at executive levels including but not limited to chief executive officer, chief operating officer, and chief financial officer. A key participant does not include non-executive managers such as farm, field, or shift managers.

Licensed Grower—Repealed.

Plot—a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of industrial hemp throughout the area and which is identified by a FSA Lot ID.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462 and R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:170 (February 2020), LR 47:

§1305. Licensing

A. - B. ...

C. The effective dates of all industrial hemp licenses shall be from the date of issuance through December 31 of any given year, and licenses must be renewed annually by November 30.

D. - E. ...

F. No unlicensed person who is not an employee of a licensee shall grow, cultivate, handle, store, process, or commence transporting industrial hemp at any location within Louisiana. No licensee shall allow any unlicensed person who is not an employee of that licensee to grow, cultivate, handle, store, process, or transport industrial hemp under his or her license. For purposes of this Chapter, employees of a licensee shall not include independent contractors or persons issued a 1099 tax form by that licensee.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:171 (February 2020), LR 47:

§1307. Seed Producer License

A. - D.6....

7. Repealed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

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

Sciences, Agricultural Chemistry and Seed Commission, LR 46:171 (February 2020), LR 47:

§1309. Grower License

A. - C.6. ...

7. Repealed.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:172 (February 2020), LR 47:

§1311. Processor License

A. ...

B. A processor license issued by LDAF shall authorize the licensee to process, handle, or transport industrial hemp plant parts for processing pursuant to this Chapter.

C. The application shall include, at a minimum, the following information for consideration:

1. Applicant's full name, Louisiana mailing and physical address, telephone number, and email address;

2. If the applicant is a business entity:

a. the full name of the business;

b. the principal Louisiana business physical address;

c. the full name, title and email address of the individual applying for the license;

d. the full name, title, and email address of the designated responsible party;

e. the full name, title, and email address of the key participants of the business entity;

f. the full name and mailing address of the registered agent; and

g. the employer identification number.

3. Detailed maps, legal description, physical address, location ID, and GPS coordinates for each building or site where industrial hemp will be processed, handled, or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:172 (February 2020), LR 47:

§1315. Criminal Background Check

NOTE: See §1305.H.1-2 for criminal conviction prohibitions regarding licensure.

A. - B. ...

C. - C.1. ...

2. Submit payment for the background check fee directly to the Louisiana State Police, Bureau of Criminal Identification and Information as set forth in R.S. 3:1465(D); and

3. ...

D. ...

E. Failure to submit the criminal background check report may result in the denial of the license application.

F. ...

1. An applicant or licensee whose application and/or license has been revoked or denied for failure to obtain a satisfactory criminal background check as set forth in R.S. 3:1465(D) or failure to comply with a written order from an LDAF agent shall not be the designated responsible party for another licensee for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:173 (February 2020), LR 47:

§1317. Licensing and Testing Fees

A. - A.2. ...

3. No license shall be issued until payment of the license fee is received by LDAF.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1467.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:173 (February 2020), LR 47:

§1319. Requirements for Seed Producers and Growers

A. - B. ...

C. A licensee shall submit in writing a completed Harvest/Destruction report to LDAF within 15 days of the intended harvest date or intended destruction date of a failed crop.

D. A grower licensee shall submit in writing a completed planting report to LDAF for each field, greenhouse, or indoor growing structure within 15 days commencing after the first day of the planting of industrial hemp. The completed planting report shall include, but is not limited to, the licensee's FSA Lot ID.

1. Repealed.

E. A seed producer licensee shall submit in writing the following completed planting reports to LDAF which shall include, but is not limited to, the licensee's FSA Lot ID:

1. For each greenhouse or indoor growing structure, the licensee shall submit in writing a completed planting report by March 31, June 30, September 30, and December 31 of each year after the initial planting.

2. For each field, the licensee shall submit in writing a completed planting report within 15 days of the first day of the planting of industrial hemp.

F. Representatives of LDAF shall be provided with complete and unrestricted access to all industrial hemp plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp plants and all locations listed in the license application.

G. An industrial hemp crop shall not be harvested more than 15 days following the date of sample collection by LDAF, unless specifically authorized in writing by LDAF.

H. An industrial hemp crop planted or cultivated in a field, greenhouse, or indoor growing structure shall be planted or cultivated in a manner to allow LDAF to collect a representative sample throughout the entire crop. If a crop is not planted or cultivated in such a manner that allows for the collection of a sample throughout the entire crop, then the grower shall make modifications to the crop to allow collection and sampling throughout the entire crop.

I. A licensee shall destroy any unharvested industrial hemp plants contained in a field, greenhouse, or indoor growing structure or any portion thereof resulting from crop failure or that licensee's failure to harvest for any reason. LDAF shall approve the written destruction method of the unharvested industrial hemp plants.

J. A licensee shall monitor and destroy volunteer industrial hemp plants from the licensee's cultivation for a period of three years after cultivation ends.

K. A licensee who fails to timely submit a Harvest/Destruction Report or who harvests a crop prior to a sample being collected by LDAF may be subject to crop destruction and regulatory action up to and including license revocation.

L. Licensed seed producers and growers shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency and shall provide, at a minimum, the following information:

1. Street address and, to the extent practicable, GPS location for each field, greenhouse, or indoor growing structure where industrial hemp will be cultivated;

2. Acreage or square footage for each field, greenhouse, or indoor growing structure dedicated to the cultivation of industrial hemp; and

3. LDAF license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:173 (February 2020), LR 47:

§1321. Seed Acquisition and Approval

A. - A.2. ...

B. Repealed.

C. - C.1. ...

2. Seed originating from an industrial hemp grower licensed within the state of production that has is accompanied by the following official documentation:

a. Certificate of analysis issued by a third party independent laboratory showing that the industrial hemp from which the seed was harvested had a THC concentration of not more than the federally defined THC level for hemp;

b. Seed purity and germination analysis report as set forth in R.S. 3:1436; and

c. Seed label, in compliance with R.S. 3:1436, for the industrial hemp seed which is being requested for approval.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431, R.S. 3:1436, R.S. 3:1445, 3:1463, R.S. 3:1464, R.S. 3:1465, and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:174 (February 2020), LR 47:

§1323 Land Use Restrictions

A. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:175 (February 2020), LR 47:

§1325. Restrictions on Sale or Transfer

A. - B. ...

C. A licensee shall not store industrial hemp or industrial hemp plant parts at any location that was not previously approved by LDAF on that licensee's application and/or site modification request form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:175 (February 2020), LR 47:

§1327. Prohibitions

A. - A.9. ...

10. Plant, grow, store, transfer, or process industrial hemp on any site not listed in the licensing application or site modification request form as set forth in this Chapter;

11. - 12. ...

13. Commingle different varieties of industrial hemp plants in a single plot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1465, R.S. 3:1466, R.S. 3:1467, R.S. 3:1468, R.S. 3:1470, and R.S. 3:1471.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:175 (February 2020), LR 47:

§1329. Production Reports

A. - A.1. ...

a. Total amount of industrial hemp sold for processing;

b. Total dollar value of industrial hemp sold for processing; and

c. Current industrial hemp plant parts in storage and location of that storage.

d. - f. Repealed.

A.2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:175 (February 2020), LR 47:

§1335. THC Sampling and Testing

A. - D.3.f. ...

4. All testing of industrial hemp samples shall be conducted by LDAF or by any public postsecondary education institution in which LDAF has entered into a contract, cooperative endeavor agreement, memorandum of understanding, or other agreement for THC testing.

D.5. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 46:177 (February 2020), LR 47:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- 3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rules. Written submissions must be directed to Lester Cannon, Director of the Seed Programs, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 10th day of January, 2021.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Industrial Hemp**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no associated costs or saving to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of rule promulgation in FY 21, which is normally included in the department’s annual operating budget. The proposed rule will have no associated costs or savings to local governmental units. The proposed rule amends LAC 7:XIII.1303, 1305, 1307, 1309, 1311, 1315, 1317, 1319, 1321, 1323, 1325, 1327, 1329, and 1335 of the Industrial Hemp Rules and Regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In accordance with Act 344 of the 2020 Regular Session that amended La. R.S. 3:1467(A) to allow for a non-refundable application fee for license applicants, the proposed rule amends LAC 7:XIII.1317 of the Industrial Hemp Rules and Regulations to require a non-refundable license application fee for license applicants. Previous to this proposed rule, there is no application fee, but rather a \$500 license fee associated with licensure. The proposed rule divides the current \$500 license fee into a \$250 non-refundable application fee and a \$250 license fee. Therefore, the proposed rule will not increase revenue collected by LDAF for existing licensed applications or newly approved applications. The proposed rule may result in an increase in revenue collected by LDAF for any application submitted, but not approved by LDAF. Based on 2020 application data, the revenue is anticipated to be insignificant. The proposed amendments to LAC 7:XIII.1303, 1305, 1307, 1309, 1311, 1315, 1319, 1321, 1323, 1325, 1327, 1329, and 1335 will not impact revenue collections of a state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is an anticipated cost to directly affected persons and non-governmental groups as a result of the proposed amendments to LAC 7:XIII.1317. Participants applying for, and not receiving approval for an industrial hemp license will be affected to the extent of the \$250 non-refundable application fee. Applicants that are approved for licensure will not be affected by the proposed rule amendment. There are no anticipated costs or benefits to affected persons or non-governmental groups as a result of the proposed amendments to LAC 7:XIII.1303, 1305, 1307, 1309, 1311, 1315, 1319, 1321, 1323, 1325, 1327, 1329, and 1335.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the implementation of the proposed rules will not impact competition and employment.

Dane Morgan
Assistant Commissioner
2012#032

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Children and Family Services
Economic Stability Section**

Jobs for America's Graduates Louisiana
(JAGS-LA) Program (LAC 67:III.5591)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5591 Jobs for America's Graduates Louisiana (JAGS-LA) Program.

Pursuant to Louisiana’s Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Section 5591 is required to update language concerning service provider.

This action was made effective by an Emergency Rule dated and effective November 1, 2020.

Title 67
SOCIAL SERVICES
Part III. Economic Stability

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective November 1, 2020, the department may enter into agreements for the purpose of administering the Jobs for America's Graduates Louisiana (JAG-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet TANF Goal 3 to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, and/or other undesirable outcomes which may lead to the detriment and impoverishment of youth.

C. Eligible participants in the JAG-LA Program shall be 12-22 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

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; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:698 (April 2008), LR 35:1257 (July 2009), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:

Family Impact Statement

The proposed Rule is not anticipated to have an adverse impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have a significant negative impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, January 26, 2021 to Shavana Howard, Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A virtual public hearing on the proposed rule will be held at 10 a.m. on January 26, 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/82279444358?pwd=bDRlQkpna0ZUNTNwUU9zTDJyMUlFMQT09> using password 372683; or via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Jobs for America's Graduates
Louisiana (JAGS-LA) Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than publication costs, it is not anticipated that any state or local governmental units will incur costs or savings as a result of this rule change. The proposed rule amends LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives.

The current rule provides that the DCFS shall enter into an agreement with the Department of Education to administer the JAG Program. The amendment removes "shall" and inserts that DCFS "may" enter into an agreement for the purpose of administering the JAG Program. The amendment also removes the limitation that the agreement must be with the Department of Education.

The rule updates the current language to be reflective of current practice. Currently, DCFS is in an agreement with the Louisiana Workforce Commission to administer the JAG program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule change is not anticipated to have a cost or direct economic benefit to small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule change is not expected to have an effect on competition and employment.

Shavana Howard
Undersecretary
2012#025

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Licensing Section

Child Placing Provisions
(LAC 67:V.Chapter 73)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A) and R.S. 46:1407 (D), the Department of Children and Family Services (DCFS) proposes to amend LAC 67, Part V, Subpart 8, Chapter 73, Child Placing Agencies, Section 7311, 7313, 7315, 7321, and 7323.

The proposed Rule clarifies requirements related to insurance coverage, location of first aid supplies, criminal background check timeframes, mandated reporter training, training topics for youth in the transitional placing program, and the location of first aid supplies in transitional placing programs. The proposed rule also adds timeframes for providing influenza information to foster/adoptive parents, adds an alternative safe sleep course, extends timeframes for obtaining statements of health, and adds a requirement for youth in the extended foster care program to be able to remain in their foster/adoptive placement.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 73. Child Placing Agencies—General Provisions

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. - A.16. ...

17. The provider shall have documentation of current general liability coverage. Documentation shall consist of the current insurance policy or current binder which includes the name of the agency, address of the agency, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

18. The provider shall have documentation of current property insurance or current rental insurance coverage for each transitional placing location. Documentation shall consist of the current insurance policy or current binder which includes the name of the agency, address of location(s) covered, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

B. - B.5.g.iii. ...

iv. CBC clearance dated no earlier than 45 days prior to hire or if a currently hired staff person assuming the position of program director, then a copy of the satisfactory CBC which is on file for individual's previous position with the agency;

v. Louisiana State Central Registry clearance dated no earlier than 45 days prior to hire or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency; and

vi. if an individual resided in a state other than Louisiana in the previous five years, State Central Registry clearance from those states dated no earlier than 120 days prior to hire; however, individuals who continue to reside

outside of the state of Louisiana and work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency.

B.5.h. - N.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:

§7313. Administration and Operation

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

ii. each transitional placing location seeking to be licensed for or currently licensed for a capacity of four or more youth shall have documentation of approval;

c. city fire department; if applicable:

i. each transitional placing location seeking to be licensed for or currently licensed for a capacity of four or more youth in a one or two family dwelling shall have documentation of approval;

B.1.d. - C.12. ...

13. In accordance with R.S. 46:1428, DCFS will provide information regarding influenza to providers prior to November 1 each year. The child-placing agency shall provide to all foster/adoptive parents, child's legal guardian with the exception of DCFS, and to all youth aged eighteen or above, the written information provided by DCFS relative to the risks associated with influenza and the availability, effectiveness, known contraindications, and possible side effects of the influenza immunization within seven calendar days of receipt from DCFS. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information, and where a child/youth may be immunized against influenza.

14. As required by chapter 55 of Title 46 of R.S. 46:2701-2711, the child-placing agency shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General in the child-placing agency's office within seven calendar days of receipt from DCFS. The child-placing agency shall provide a copy of the safety box newsletter to all foster parents, adoptive parents, and youth in transitional placing programs within seven calendar days of receipt from DCFS. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the home/premises. Provider shall document within 14 calendar days of receipt from DCFS in the foster/adoptive parent record and transitional placing youth's record receipt of the newsletter and confirmation with the foster/adoptive parent and transitional placing youth that the home and environment were checked and the recalled products were removed.

D. - E.4. ...

5. All records shall be maintained in an accessible, standardized order and format. If a provider maintains records in an electronic format only, a staff person shall be immediately available at all times during the licensing inspection to locate information on the computer that is requested by Licensing staff and print information if

requested. Provider shall also have a contingency plan that would allow Licensing staff to continue to review records in the event a power outage occurs.

E.6. - J.1. ...

2. Staff shall complete orientation training within the individual's first 15 working days from date of hire. Provider's orientation program shall include the following:

2.a. - 5....

6. All staff hired effective April 1, 2019, or after working with foster/adoptive parents shall complete the Reducing the Risk of SIDS in Early Education and Child Care training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwa.org within the individual's first 15 working days after hire. Documentation of training shall be the certificate obtained upon completion of the training.

J.7. - K.4. ...

5. Effective April 1, 2019, all staff working with foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwa.org within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

K.6. - U.5....

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:368 (March 2019), effective April 1, 2019, LR 46:683 (May 2020), effective June 1, 2020, LR 47:

§7315. Foster and Adoptive Certification

A. Home Study—Foster and Adoptive Home

1. Prior to placement of a child/youth in the home, the provider shall complete a home study of the foster/adoptive parent and their home. The home study shall be signed and dated by the person completing the home study and approved, signed, and dated by a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist prior to certification of the foster/adoptive parents. All individuals who approve home studies shall be licensed in the state of Louisiana.

2. - 7. ...

8. Foster/adoptive parents and adults of the household interviewed in person shall sign and date summary or home study written by the interviewer upon it's completion to ensure accuracy.

A.9. - C. ...

1. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody shall be conducted prior to certification and annually thereafter. The SCR clearance expires one year from the date noted on the clearance. The annual SCR clearance shall be obtained prior to its' expiration. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

C.2. - D.21. ...

22. Prior to certification, the foster/adoptive parent(s) shall receive a list of the responsibilities noted in 7315.D.1-21. There shall be documentation signed and dated by the foster/adoptive parent acknowledging receipt of the list of responsibilities by the foster/adoptive parent in the foster/adoptive parent record.

E. - E.3.n. ...

4. A statement of health dated within six months prior to certification and updated every three years for each adult member of the prospective foster/adoptive parent's household, excluding youth in DCFS custody, signed by a licensed physician or licensed health care professional verifying that the individual:

E.4.a. - G.14. ...

15. Children with the exception of infants shall not share a bedroom with adults. Exceptions may be granted as noted below; however, a child shall not share a bed with an adult under any circumstances.

a. An exception may be granted when a child needs close supervision due to illness or medical condition and approval is received from the child-placing agency.

i. Documentation of the exception from the child-placing agency shall be in the foster/adoptive parent(s) record. Documentation shall include the following:

(a). name of child sharing the room with an adult for which approval is granted,

(b). name of adult(s) sharing the room with the child for which approval is granted,

(c). description of illness or medical condition warranting the exception being granted,

(d). timeframe for which approval is granted,

(e). signature and date of child-placing agency staff granting approval, and

(f). conditions, if any for which approval is granted.

b. An exception may be granted in accordance with DCFS Child Welfare policy if the adult is a young adult in the DCFS Extended Foster Care Program and was already sharing a room with the child upon the youth reaching adulthood. No young adult in the DCFS Extended Foster Care Program shall be newly placed in a home whereby they would be required to share a bedroom with a child.

i. Documentation of the exception from Child Welfare shall be on file prior to the young adult in the DCFS Extended Foster Care Program attaining their 18th birthday. Documentation shall include the following:

(a). name of the CPA, if applicable for which approval is granted,

(b). name of the foster/adoptive home for which approval is granted,

(c). names and birth dates of children sharing the room with the young adult in the DCFS Extended Foster Care Program for which approval is granted,

(d). name and birth date of young adult in the DCFS Extended Foster Care Program sharing a room with the children noted for which approval is granted,

(e). signature and date of child welfare state office staff granting approval, and

(f). conditions, if any for which approval is granted.

H. - P.4. ...

5. Once certified, a minimum of 15 hours of child-placing agency approved training shall be received annually by the foster parents prior to certification expiration. The hours may be shared among the adult members of the family, however, each adult shall receive a minimum of five hours. If adult members of the household attend trainings together, each person shall receive individual credit for their attendance. It is not required for adult members of the household to attend trainings on different topics. All hours received by each individual adult member of the household will account for the total number of hours received per household. Documentation of training completed shall include certificate of participation or sign in log specifying foster parent's name, training topic, date, and number of hours completed. Foster parents certified by DCFS shall follow the training requirement timeframe as noted in DCFS child welfare policy.

6. Prior to certification and updated annually, documentation of reasonable and prudent parent training for all foster parents shall be maintained. Documentation shall include the training topics, foster parent signature, and date. Reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

6.a. - 7. ...

8. Prior to certification, all prospective foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

9. Prior to certification all prospective foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwa.org. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

10. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within 45 days and annually thereafter. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

11. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing

the Risk of SIDS training available through DCFS at www.moodle.lcwa.org within 45 days and annually thereafter. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

P.12. - Q.1. ...

2. Foster/adoptive parent(s) shall have at least one adult (age 18 or older) responsible for the supervision of children or available at all times within close proximity of the home when a foster/adoptive parent is not present. The appointed adult caregiver shall be available by phone at all times.

R. - V.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:377 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:

§7321. Adoption Services

A. - H.2. ...

3. After the visits noted in §7321.H.2, provider shall conduct an in home supervisory visit with one adoptive parent at least once every other month. Provider shall observe the infant in the home at each supervisory visit conducted.

H.4. - M.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:388 (March 2019), effective April 1, 2019, LR 47:

§7323. Transitional Placing Program

A. - A.5. ...

6. One training topic referenced in §7323.A.5.a. shall commence within seven calendar days from the date of placement. Training shall be continuous until all aforementioned topics are covered (depending on length of stay.) Training shall be tailored to youth's current level of functioning with additional training introduced as a youth progresses, achieves success in the minimum skills, and articulates a desire to learn more advanced skills. Documentation of training shall include signature of staff, signature of youth, training topics addressed, and date training occurred.

7. A written description of training provided to youth transitioning from the program shall be included in policy. Topics shall include, but are not limited to the following:

- a. developing and following a budget;
- b. identifying safe and affordable housing;
- c. negotiating a lease;
- d. understanding the terms of a lease or housing contract;
- e. understanding landlord/tenant rights and responsibilities;
- f. searching for a job; and
- g. retaining a job.

8. Training shall be completed prior to the youth transitioning from the program. Documentation shall include signature of staff and youth, training topics, and date.

B. - C.1. ...

2. Each youth shall have his/her own bed located in a designated bedroom. With the exception of a studio apartment housing one youth, common areas shall not be used as a bedroom; however, if youth chooses to use a common area as a bedroom, documentation shall include a signed and dated statement by youth indicating such. In addition, written annual approval is required by the OSFM for each apartment unit/location address allowing a common area to be used as a bedroom.

3. - 8. ...

9. First aid supplies shall be provided by the child-placing agency and maintained in each transitional placing living unit unless the TP program office is on-site, staffed 24 hours a day, and accessible to all the residents, then first aid supplies may be stored in the office. Supplies shall include, but not limited to the following:

C.9.a. - D.1.c. ...

D.2. Approval from child welfare state office staff shall be obtained and documented prior to placing a youth in DCFS custody in a transitional placing program that has been suicidal, homicidal, and/or exhibited any psychotic behaviors in the past six months.

3. Documentation from the child welfare state office shall include:

- a. name of the CPA for which approval is granted,
- b. name and birth date of youth for which approval is granted,
- c. statement explaining why the youth is appropriate for placement in the transitional placing program despite not meeting the criteria noted in Section 7323.D.1.c,
- d. signature of child welfare state office staff granting approval and date of approval which shall be prior to the placement date, and
- e. conditions, if any for which approval is granted.

D.4. - L.6.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:392 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through January 26, 2021, to Angie Badeaux, Licensing Program Director, Department of Children and Family Services, P. O. Box 3078, Baton Rouge, LA, 70821.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 9:00 a.m. on January 26, 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/94683082048>; or via telephone by dialing (713)353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=848054>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Placing Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In FY 21, this rule change is anticipated to increase the expenses of the Department of Children and Family Services (DCFS) by \$2,982 (\$1,372 State General Funds and \$1,610 Federal Funds) for publication costs. There are no other anticipated impacts on state or local government expenditures.

The proposed Rule amends Chapter 73, Child Placing Agencies, Sections 7311, 7313, 7315, 7321, and 7323. The proposed Rule adds clarifying language related to documentation requirements of insurance coverage, location of first aid supplies, documentation requirements of state central registry background checks, timeframe for providing information about the influenza vaccine, timeframe for posting "The Safety Box" newsletter, accessibility of electronic records, additional options for training classes, documentation requirements for placing certain youth in transitional placement, and exceptions for foster/adoptive children sharing a bedroom.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will not affect state or local government revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule may have an economic impact on some groups. The rule change provides that child placement agencies that only maintain electronic records must have electronic records available on site at all times, which may necessitate the purchase of additional computer equipment or software. Additionally, the rule change provides more exceptions to foster/adoptive children sharing a bedroom, which may result in an economic benefit to foster/adoptive parents given that they may not be required to increase the number of bedrooms in their home.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Shavana Howard
Undersecretary
2012#024

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
(LAC 28: CXLVII. 105, 301 and 305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposed to amend LAC 28:CXLVII (Bulletin 130). For the 2020-2021 school year, the proposed revisions allow for the qualitative measure of teacher and administrator performance to include a minimum of one observation or site visit. Proposed revisions also allow, for the 2020-2021 school year, learning targets for administrators to be based upon formative assessment data.

Title 28

EDUCATION

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

Chapter 1. Overview

§105. Framework for LEA Personnel Evaluation

Programs

[Formerly §109]

A. – B.2. ...

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year.

a. for the 2020-2021 academic year only, this shall include one announced observation for teachers and administrators.

b. any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

c. following the 2020-2021 academic year, this shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. At least one of these observations shall be announced and shall include a pre- and post-observation conference. One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

B.4. – B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 47:

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, data derived from the value-added assessment model shall be a factor in measuring growth in student learning for grade levels and subjects for which value-added data are available. If value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. If value-added data are not available, growth in student learning shall be comprised of 50 percent student learning targets. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

2. For the 2020-2021 academic year only, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include one announced observation for teachers and administrators.

a. any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

b. following the 2020-2021 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017), LR 47:

§305. Measures of Growth in Student

Learning—Learning Targets

A. – D.1. ...

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

D.4 – E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1267 (July 2015), LR 47:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, January 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions could impact expenditures of local school districts to the extent teachers or administrators initially rated as Ineffective experience improved performance ratings through their second observation as a result of additional support, however this is not anticipated to be material. Based on the 2018-19 Compass Teacher Results, an estimated 505 (1%) of teachers were rated Ineffective. State law prohibits teachers or administrators rated Ineffective from receiving a higher salary in the year following the evaluation. If any teachers or administrators initially rated Ineffective are able to improve their rating to Effective: Emerging, they would become eligible for salary increases or supplements in the 2021-22 academic year.

In addition, the proposed revisions would allow learning targets for principals and administrators to be based upon either school performance scores or formative assessment data for the 2020-21 academic year. Currently, progress toward student learning targets comprise the student growth component of annual evaluations for principals and administrators. Principals identify a minimum of two student learning targets, based on (a) overall school performance improvement in the current school year, as measured by the school performance score, and (b) growth in a component score of school performance score (such as English Language Arts or mathematics). However, due to the cancellation of 2020 spring testing, 2019-20 school performance scores are unavailable for use in setting student learning targets. Under the proposed revisions, districts may use either 2018-19 school performance scores or formative assessment data to identify student learning targets. According to the LDE, districts already utilize various assessments to measure student learning, though this is likely to vary by grade

and subject matter. Formative assessments may include assessments purchased through vendors, assessments that are embedded in high-quality instructional materials, and teacher-made assessments. Local school districts may incur costs or workload adjustments to the extent they need to contract or develop formative assessments, however this is indeterminable. Given the variability in the types of formative assessments, it is unknown how the use of this data will affect evaluation results for principals and administrators.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Teachers and administrators initially rated as Ineffective may benefit from additional support from school administrators that are not required to conduct a second evaluation for certain personnel during the 2020-21 academic year. To the extent this results in improved performance evaluations, teachers and administrators could potentially receive a salary increase in the 2021-22 academic year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
2012#040

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 131—Alternative Education
Schools/Programs Standards (LAC 28:CXLIX. 2101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposed to amend LAC 28:CXLIX (Bulletin 131). Proposed revisions revise the submission date for the annual report on alternative education schools and programs in Louisiana.

Title 28 EDUCATION

Part CXLIX. Bulletin 131—Alternative Education Schools/Programs Standards Chapter 21. Alternative Site Authorization and Approval

§2101. Approval for Alternative Schools or Programs

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

b. alternative schools and programs report by January.

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:402 (March 2019), LR 47:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption,

repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, January 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 131—Alternative Education Schools/Programs Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to create implementation costs or savings to state or local governmental units. The proposed revision would shift the required submission of an annual LDE report on alternative education schools and programs from October to January.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
2012#041

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Legal Affairs and Criminal Investigations Division

2020 Annual Incorporation by Reference of Certain
Federal Air Quality Regulations (LAC 33:III.505, 507,
2160, 3003, 5116, 5122, 5311, and 5901)(AQ389ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.505, 507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ389ft).

This Rule is identical to federal regulations found in 40 CFR Parts 60, 61, 63, 68, and 72 as well as 40 CFR 70.6(a)

and 40 CFR 51, Appendix M, which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

In order for Louisiana's air quality regulations to remain equivalent to federal air quality regulations, certain regulations in the most current Code of Federal Regulations (CFR) must be incorporated in the Louisiana Administrative Code (LAC). This rulemaking is also necessary to maintain LDEQ's authority to implement, administer, and enforce standards delegated to Louisiana by the Environmental Protection Agency. LAC Title 33, Part III incorporates by reference (IBR) a number of federal regulations in 40 CFR Parts 60, 61, 63, 68, and 72 as well as 40 CFR 70.6(a) and 40 CFR 51, Appendix M as they existed in the CFR on July 1, 2019. Any exceptions and/or modifications to the IBR are explicitly prescribed in LAC 33:III. This Rule updates the date reference of the federal regulations incorporated to July 1, 2020. The basis and rationale for this Rule are to incorporate by reference the aforementioned federal regulations as they apply to affected sources in Louisiana. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR part 72, July 1, 2020, are hereby incorporated by reference.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:1598 (September 2006), LR 33:2083 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:893 (July 2020), LR 46:

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519,

unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2020. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:893 (July 2020), LR 46:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test

Procedures

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, appendix M, July 1, 2020, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:893 (July 2020), LR 46:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2020, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

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 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR 41:1274 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:894 (July 2020), LR 46:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2020, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

* * *

B. - C. ...

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 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230

(December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:1274 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:894 (July 2020), LR 46:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2020, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:894 (July 2020), LR 46:

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2020, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. ...

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 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:894 (July 2020), LR 46:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2020.

B. - C.6. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1087 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:894 (July 2020), LR 46:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Hearing

A virtual public hearing on the proposed Rule will be held on January 27, 2021, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/83164202291?pwd=OXQrREVDN2ZjbUtJd0F5TGE5Mn dhUT09> using the password 264455; or via telephone by dialing 636-651-3182 and entering conference code 725573. To find local AT&T Numbers visit <https://www.teleconfer ence.att.com/servlet/glbAccess?process=1&accessNumber= 6366513182&accessCode=725573>. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ389ft. Such comments must be received no later than January 27, 2021, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ389ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
General Counsel

2012#028

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Legal Affairs and Criminal Investigations Division

2020 Annual Incorporation by Reference of Certain Water Quality Regulations (LAC 33:IX.4901 and 4903)(WQ107ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.4901 and 4903 (Log #WQ107ft).

This Rule is identical to federal regulations found in 40 CFR Part 136, Parts 401, and 405-471, which are applicable in Louisiana. For more information regarding the federal

requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule updates the reference dates for 40 CFR Part 136, guidelines Establishing Test Procedures for the Analysis of Pollutants, and 40 CFR Chapter I, Subchapter N, Parts 401, 405-471, Effluent Guidelines and Standards in LAC 33:IX.4901 and 4903. This Rule will incorporate the recently updated federal regulations into Louisiana's water quality regulations. This revision increases the enforceability of Louisiana Pollutant Discharge Elimination System (LPDES) permits that include EPA approved analytical methods and effluent limitation guidelines. The published edition of the 40 CFR is updated on July 1 of every calendar year; therefore, this Rule will incorporate the date of July 1, 2020. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2020, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2135 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017), LR 46:330 (March 2020), LR 46:

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2020, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752

(April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2136 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017), LR 46:331(March 2020), LR 46:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Hearing

A virtual public hearing on the proposed Rule will be held on January 27, 2021, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/83164202291?pwd=OXQrREVDN2ZjbUtJd0F5TGGE5MndhUT09> using the password 264455; or via telephone by dialing 636-651-3182 and entering conference code 725573. To find local AT&T Numbers visit <https://www.teleconferencence.att.com/servlet/glbAccess?process=1&accessNumber=6366513182&accessCode=725573>. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ107ft. Such comments must be received no later than January 27, 2021, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ107ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA

70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
General Counsel

2012#029

NOTICE OF INTENT

Office of the Governor Licensing Board for Contractors

Licensure and Exemption of Exam for Individuals with Military Training and Experience, Military Spouses and Dependents (LAC 46:XXIX.129)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2192, which is the Contractor Licensing Law, the Licensing Board for Contractors (LSLBC) hereby gives notice of its intent to update its rules regarding issuing a license to military personnel, spouses or dependents without examination while recognizing the license, registration or experience in another state with equivalent requirements.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXIX. Contractors

Chapter 1. Applications and Licensing

§129. Licensure and Exemption of Exam for Individuals with Military Training and Experience, Military Spouses and Dependents [Formerly §321]

A. The board shall issue a license or registration to an applicant who is a member of the military, including United States Department of Defense civilian employees who have been assigned to duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee, if the member or United States Department of Defense civilian receives military orders for a change of station to a military installation or assignment located in this state or if the member or United States Department of Defense civilian has established this state as his state of legal residence as reflected in the member's or United States Department of Defense civilian's military record if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. holds a current and valid occupational license in another state in an occupation with a similar scope of practice, as determined by the board.
2. has held the occupational license in the other state for at least one year.
3. has passed any examinations, or met any education, training, or experience standards as required by the board in the other state.
4. is held in good standing by the board in the other state.

5. does not have a disqualifying criminal record as determined by the board under the laws of this state.

6. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

7. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

8. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

9. pays all applicable fees and meets all other requirements for licensure.

B. The board shall issue a license or registration to an applicant who is a member of the military, or an applicant who is married to or is a dependent of a member of the military or United States Department of Defense civilian employee who has been assigned duty in Louisiana, upon application based on work experience in another state if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. worked in a state that does not use an occupational license or governmental certification to regulate a lawful occupation, but the board regulates this lawful occupation with a similar scope of practice.

2. worked for at least three years in the lawful occupation.

3. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

4. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

5. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation, or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

6. pays all applicable fees and meets all other requirements for licensure.

C. The board shall issue a license or registration to an applicant who is a member of the military or United States Department of Defense civilian employee who has been assigned duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee based on holding a private certification and work experience in another state if, upon application to the board, all of the following conditions are satisfied by the applicant:

1. worked in a state that does not use an occupational license or government certification to regulate a lawful occupation, but that occupation is lawfully regulated by this board through a license or registration.

2. has worked for at least two years in the lawful occupation.

3. holds a current and valid private certification in the lawful occupation.

4. the private certification organization holds the applicant in good standing.

5. has not had an occupational license revoked by a board in another state because of negligence or intentional misconduct related to the applicant's work in the occupation.

6. did not surrender an occupational license because of negligence or intentional misconduct related to the person's work in the occupation in another state.

7. does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If there is an existing complaint, allegation or investigation pending, the board shall not issue or deny a license or registration until the complaint, allegation, or investigation is resolved or the applicant otherwise satisfies the criteria for licensure in this state to the satisfaction of the board.

8. pays all applicable fees and meets all other requirements for licensure.

D. The education, training, or experience requirements for an occupational license issued by the board will be determined by the presentation from the applicant of satisfactory evidence that the applicant received comparable education, training or experience as a member of the United States armed forces or any national guard or other reserve component.

E. The applicant will be required to complete the business and law course.

F. Upon receipt of all required and complete documents, the board will provide the applicant with a written decision regarding the application for an occupational license within 30 calendar days after receiving an application.

G.1. The applicant may appeal any of the following decisions made by the board, in a court of general jurisdiction:

a. denial of a license;

b. determination of the classification;

c. determination of the similarity of the scope or practice of the occupational license issued;

H. A person who obtains a license or registration pursuant to this rule is subject to all laws regulating the occupation in this state and the jurisdiction of this board.

I. The term "military" means the armed forces of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the Military Reserves of any state, or the naval militia of any state.

J. The term *dependent* means:

1. a resident spouse or resident unmarried child under the age of 21 years;

2. a child who is a student under the age of 24 years and who is financially dependent upon the parent; or

3. a child of any age who is disabled and dependent upon the parent.

K. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

L. This Section preempts laws by township, municipal, county and other governments in the state which regulate occupational licenses and government certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), LR 44:2146 (December 2018), LR 47:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, the impact of this proposed Rule on the family has been considered. It is anticipated that changes to the rules of the State Licensing Board for Contractors will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by streamlining licensure for military members and their spouses/dependents.

Poverty Impact Statement

In accordance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of the changes to the rules have been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty and may produce a positive impact in gainful employment through licensure.

Small Business Statement

In accordance with 49:965.6, the proposed changes to the rules will not have an adverse impact on small businesses. Consequently, it will ease the application and renewal processes for military applicants and/or their spouses/dependents with comparable certification/experience seeking licensure with this agency.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no known impact on providers of services for individuals with developmental disabilities.

Interested Persons

Interested persons may submit written comments on the proposed regulations to the Licensing Board for Contractors, attention Judy Dupuy, Board Administrator, 600 North Street, Baton Rouge, LA 70802 before January 10, 2021 at 3:30 p.m.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held January 25, 2021 at 9:30 a.m. at the Louisiana State Licensing Board for Contractors at 600 North Street, Baton Rouge, LA 70802.

Michael McDuff
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure and Exemption of Exam for Individuals with Military Training and Experience, Military Spouses and Dependents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no impact on state or local governmental costs or expenditures. Implementation of the proposed rule will be carried out using existing staff and funding levels. The proposed rule would allow the LSLBC to issue a license to military personnel, spouses or dependents without examination while recognizing the license, registration or experience in another state with equivalent requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue. Rules were originally promulgated in 2014, and are being updated to comply with Act 200 of the 2020 Regular Legislative Session. The proposed rule change does not include any fee increases by the LSLBC.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A benefit will accrue to military personnel, spouses or dependents resulting in quicker licensure where equivalent licensure, training, experience exists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be an effect on competition and employment as there will be additional and easier pathways for military members, spouses/dependents to receive licenses.

Judy Dupuy
Board Administrator
2012#020

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Dental Benefits Prepaid Ambulatory Health Plan
Payment Methodology
(LAC 50:I.2111)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.2111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the payment methodology for the dental benefits prepaid ambulatory health plan in order to allow the state to reimburse monthly capitation payments to the dental benefits plan manager (DBPM) in the aggregate on a lump sum basis when necessary, and to require DBPMs to submit medical loss ratio data to the state and issue a refund if minimum standards are not met.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Basic Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2111. Payment Methodology

A. - A.2. ...

3. The department or its fiscal intermediary, may reimburse a DBPM's monthly capitation payments in the

aggregate on a lump sum basis when administratively necessary.

B. - I. ...

J. A DBPM shall have a medical loss ratio (MLR) for each MLR reporting year, which shall be a calendar year, except in circumstances in which the reporting period must be revised to align to a CMS-approved capitation rating period.

1. Following the end of the MLR reporting year, a DBPM shall provide an annual MLR report, in accordance with the financial reporting guide issued by the department.

2. The annual MLR report shall be limited to the DBPM's MLR for services provided to Medicaid enrollees and payment received under the contract with the department, separate from any other products the DBPM may offer in the state of Louisiana.

3. An MLR shall be reported in the aggregate, including all services provided under the contract, unless the department requires separate reporting and a separate MLR calculation for specific populations.

a. The MLR shall not be less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 42 CFR 438.8. If the MLR is less than 85 percent, the DBPM will be subject to refund the difference, within the timeframe specified, to the department. The portion of any refund due the department that has not been paid, within the timeframe specified, will be subject to interest at the current Federal Reserve Board lending rate or in the amount of 10 percent per annum, whichever is higher.

4. The department shall provide for an audit of the DBPM's annual MLR report and make public the results within 60 calendar days of finalization of the audit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:788 (April 2014), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is

anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 11, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 28, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Dental Benefits Prepaid Ambulatory Health Plan—Payment Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$324 will be collected in FY 20-21 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the payment methodology for the dental benefits prepaid ambulatory health plan in order to allow the state to reimburse monthly capitation payments to the dental benefits plan manager (DBPM) in the aggregate on a lump sum basis when necessary, and to require DBPMs to submit medical loss ratio (MLR) data to the state and issue a refund if minimum standards are not met. Implementation of this proposed Rule ensures that the dental provisions in the Louisiana Administrative Code accurately reflect the current MLR practice which is required by law. It is anticipated that implementation of this proposed rule will not result in an increase or decrease in payments to dental benefits prepaid ambulatory health plans in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by permitting aggregate lump sum payments of the monthly capitation rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#053

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Intermediate Care Facilities for
Persons with Intellectual Disabilities
Reimbursement Methodology
(LAC 50:VII.32903)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. In compliance with Act 1, the department promulgated an Emergency Rule which amended the provisions governing reimbursement for non-state ICFs/IID to increase the reimbursement rates to qualifying facilities (*Louisiana Register*, Volume 46, Number 9). This proposed Rule is being promulgated in order to continue the provisions of the Emergency Rule adopted on August 25, 2020.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - M. ...

N. Pursuant to the provisions of Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, effective for dates of service on or after July 1, 2020, private ICF/IID facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010 without the benefit of a cooperative endeavor agreement (CEA) or transitional rate and who incurred excessive capital costs, shall have their per diem rates (excluding provider fees) increased by a percent equal to the percent difference of per diem rates (excluding provider fees) they were paid as of June 30, 2019. See chart below with the applicable percentages:

	Intermittent	Limited	Extensive	Pervasive
1-8 beds	6.2 percent	6.2 percent	6.2 percent	6.1 percent
9-15 beds	3.2 percent	6.2 percent	6.2 percent	6.1 percent
16-32 beds	N/A	N/A	N/A	
33+ beds	N/A	N/A	N/A	

1. The applicable differential shall be applied anytime there is a change to the per diem rates (for example, during rebase, rate reductions, inflationary changes, or special legislative appropriations). This differential shall not extend beyond December 31, 2024.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:539 (March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it ensures the continuation of service options for families who may be experiencing difficulty caring for

impacted recipients and allows those recipients to continue receiving appropriate care in the appropriate settings.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 11, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 28, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at 225-342-1342 after January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the

Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$344,117 for FY 20-21, \$386,150 for FY 21-22 and \$386,150 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 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 \$740,051 for FY 20-21, \$798,054 for FY 21-22, and \$798,054 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, in compliance with Act 1 of the 2020 First Extraordinary Session of the Louisiana Legislature, continues the provisions of the Emergency Rule adopted on August 25, 2020 which amended the provisions governing reimbursement for non-state intermediate care facilities for persons with intellectual disabilities (ICFs/IID) to increase reimbursement rates for facilities that downsized from over 100 beds to less than 35 beds prior to December 31, 2010, without the benefit of a cooperative endeavor agreement. This proposed Rule will be beneficial to recipients whose families may be experiencing difficulty caring for them by ensuring the continuation of service options and allowing them to continue receiving appropriate care in the appropriate settings. Qualifying ICFs/IID will benefit from implementation of this proposed Rule as it increases reimbursement rates. It is anticipated that implementation of this proposed Rule will increase expenditures for ICFs/IID by approximately \$1,083,628 for FY 20-21, \$1,184,204 for FY 21-22, and \$1,184,204 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#055

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.541)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.541 in the Medical Assistance Program as authorized by R.S. 36:254

and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

Federal regulations require minimum liability insurance for any vehicle with a seating capacity of 15 passengers or less, including the driver, for interstate non-emergency medical transportation (NEMT) travel. The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing provider enrollment in the NEMT program to increase the minimum liability insurance for providers of transportation to out-of-state medical or behavioral health services in order to comply with the federal requirements for interstate NEMT travel.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. - C. ...

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the \$1,500,000 insurance requirement.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 20:1115-1117 (October 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016), LR 46:694 (May 2020), LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may negatively impact some small businesses, as described in R.S. 49:965.2 et seq., as increased insurance rates could result in additional costs for some.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on staffing level requirements or qualifications changes in order to provide the same level of service, but may increase direct or indirect cost to some providers to provide the same level of service due to the increase in liability insurance costs. The proposed Rule may also have a negative impact on some providers' ability to provide the same level of service as described in HCR 170 if the increase in costs adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on January 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 11, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 28, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at 225-342-1342 after January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Non-Emergency Medical Transportation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of promulgation costs for FY 20-21. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing provider enrollment in the non-emergency medical transportation (NEMT) program in order to increase the minimum liability insurance for providers of transportation to out-of-state medical or behavioral health services to comply with federal requirements for interstate NEMT travel. It is anticipated that implementation of this proposed rule will result in increased costs to NEMT providers in FY 20-21, FY 21-22 and FY 22-23 due to the increase in the required level of insurance for out-of-state transports.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#057

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Nursing Facilities—Non-Emergency
Transportation for Medical Appointments
(LAC 50:II.10137)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.10137 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the standards for payment for nursing facilities in order to clarify the provisions governing non-emergency transportation for medical appointments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 3. Standards for Payment

**Chapter 101. Standards for Payment for Nursing
Facilities**

Subchapter D. Resident Care Services

§10137. Ancillary Services

A. - D.5....

**E. Non-Emergency Transportation for Medical
Appointments**

1. It is the responsibility of the nursing facility to arrange for or provide its residents with non-emergency transportation to all necessary medical appointments when use of an ambulance is not appropriate. This includes wheelchair bound residents and those residents going to therapies and hemodialysis. Transportation shall be provided

to the nearest available qualified provider of routine or specialty care within reasonable proximity to the facility. Residents can be encouraged to utilize medical providers of their choice in the community in which the facility is located when they are in need of transportation services. It is also acceptable if the facility or legal representative/sponsor chooses to transport the resident.

2. If non-emergency transportation is required, and it is medically necessary for the resident to be transported to a necessary medical appointment by ambulance, the nursing facility will be responsible for contacting the appropriate managed care organization (MCO) or fee-for-service (FFS) transportation representative and submitting the completed Certification of Ambulance Transportation form to the MCO or FFS representative prior to the scheduled pick-up time.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this

proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 11, 2021. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 28, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after January 11, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities Non-Emergency Transportation for Medical Appointments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the standards for payment for nursing facilities in order to clarify the provisions governing non-emergency transportation for medical appointments. Providers will be impacted by implementation of this proposed Rule since it adds language to the Louisiana Administrative Code which requires nursing facilities to contact the appropriate managed care organization or fee-for-service transportation representative and submit the necessary documentation when arranging non-emergency ambulance transportation for medical appointments for recipients. It is anticipated that implementation of this proposed Rule will not

result in any increase or decrease in payments to providers in FY 20-21, 21-22, and 22-23 but will be beneficial by ensuring that the provisions are clearly and accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2012#058

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office for Citizens with Developmental Disabilities

Council on the Purchase of Goods and Services of
Individuals with Disabilities
(LAC 67:VII.Chapter 9)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health, Office for Citizens with Developmental Disabilities (LDH-OCDD), hereby proposes to amend LAC 67:Part VII Rehabilitation Services, Chapter 9 Council on the Purchase of Goods and Services of Individuals with Disabilities. The intent of the proposed amendment will allow individuals with disabilities to work alongside individuals without disabilities in non-segregated settings earning a fair wage. The proposed Rule also includes changes to remove references to sheltered workshops and replace with supported employment provider in addition to making the necessary people first language changes. The proposed amendment is to update the Rule pursuant to ACT 312 of the 2019 Regular Legislative Session.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 9. Council on the Purchase of Goods and Services of Individuals with Disabilities

§901. General Rules

A. The purpose of this program is to further the state of Louisiana's policy of encouraging and assisting individuals with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities and, in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to individuals with disabilities. This program will provide employment opportunities for individuals with disabilities, thereby reducing their need for financial and other forms of assistance from government.

B. The Program for the Purchase of Goods and Services Provided by Individuals with Disabilities created pursuant to R.S. 39:1604.4, which provides that every agency gives a preference in its purchasing practices to goods manufactured and services performed by individuals with disabilities, shall be called the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities hereinafter called Council.

C. The Louisiana Department of Health (LDH) shall establish a council and the membership of the council shall be determined by the secretary of LDH.

D. The Council shall be responsible for the implementation, policies, supervision, and monitoring of the program including having the authority to designate and contract with a central nonprofit agency to assist supported employment providers.

E. When contracting with a central nonprofit agency, the council shall solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595, at least every five (5) years.

F. All suitable goods and services approved by the council in accordance with applicable specifications by or for any state agency shall be procured from such nonprofit organization, program or entity as defined by R.S. 12:201 et seq., where such goods and services are available within the period specified at the fair market price unless otherwise excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§903. Definitions

Central Nonprofit Agency (CNA)—an entity designed as a central nonprofit agency pursuant to RS 39:1604.4.

Community Rehabilitation Program (CRP)—a government or nonprofit private program operated under criteria established by the council and under which individuals with disabilities produce goods or perform services for compensation.

Council—when used in these rules shall refer to the Louisiana Department of Health (LDH) State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities.

Direct Labor—all work required for preparation, processing and packaging of a good, or work directly relating to the performance of a service; except supervision, instruction, administration, inspection or shipping goods.

Disability—a mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment.

Goods Manufactured and Services Performed by Individuals with Disabilities—goods and services for which not less than 40 percent of the man-hours of direct labor required for manufacture or performance is provided by individuals with disabilities.

Individuals with Disabilities—individuals with a physical, behavioral, developmental, intellectual, sensory, mental, or addictive disorder which constitutes a substantial obstacle to their employment and is of such a nature as to prevent an individual from engaging in normal competitive employment.

Supported Employment Provider—a nonprofit organization, program or entity that:

1. as defined by R.S. 12:201 et seq. operates in the interests of individuals with disabilities and provides gainful, competitive, integrated employment for individuals with disabilities, and the income of which does not inure in whole or part to the benefit of any shareholder or other private

individual, in compliance with a central nonprofit agency for individuals with disabilities and

2. complies with any applicable occupational health and safety standards provided by the statutes or regulations of this state or of the United States.

3. in Fiscal Years 2019-2020 and 2020-2021, supported employment provider shall also include any sheltered workshop transitioning to a supported employment provider as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§905. Organization of the Council

A. The council will be composed of no more than nine members to be known as the Council on the Purchase of Goods and Services of Individuals with Disabilities, including three state agency members and up to six appointed members. The state agency members shall be the director of State Purchasing of the Division of Administration or their designee; and the assistant secretary of the Office for Citizens with Developmental Disabilities, Louisiana Department of Health (LDH) or their designee; and the director of Louisiana Rehabilitation Services or their designee. The six appointed members shall be recommended by the Council on the Purchase of Goods and Services of Individuals with Disabilities and approved by the secretary of the LDH. A chairman shall be recommended by the council to the secretary of the LDH for appointment.

B. Reimbursement for necessary expenses actually incurred in the performance of services in connection with the work of the council will be made as authorized by the secretary of LDH.

C. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§907. Duties and Responsibilities of the Council

A. The duties and responsibilities of the council are:

1. to coordinate and facilitate the carrying of R.S. 39:1604.4 and R.S. 38:2261;
2. to certify eligibility of programs for participation;
3. to suspend and reinstate a supported employment provider;
4. to solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595 at least every five years to designate and contract with a central nonprofit agency to assist the Council in performing its functions;
5. to act on recommendations of the central nonprofit agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§909. Certification of Eligibility of Participating Supported Employment Provider

A. The council shall certify each supported employment provider making application for participating in the Program for the Purchase of Goods and Services Provided by Individuals with Disabilities.

1. The applicant meets the necessary definition of a supported employment provider as defined in R.S. 39:1604.4.

2. The applicant meets the necessary definition of a central nonprofit agency as outlined in R.S. 39:1604.4, only if central nonprofit agency status is a requirement that the program must have obtained to function legally as a supported employment provider under federal and/or state statutory requirements.

3. The applicant conforms to the requirement for goods manufactured and services performed by individuals with disabilities as defined in R.S. 39:1604.4.

4. The applicant has demonstrated to the Council's satisfaction that it is capable of providing goods and services for sale to the state that conform to the criteria for same, as established by the rules pursuant to R.S. 39:1604.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§911. Central Nonprofit Agency

A. The council shall have the authority to designate and contract with a central nonprofit agency to assist supported employment providers in submitting applications for the selection of suitable goods and services, to facilitate the allocation of orders among qualified supported employment providers, in controlling quality control, and in assisting the council in carrying out its responsibilities.

B. The council shall solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595, at least every five years to designate and contract with a central nonprofit agency.

C. The central nonprofit agency may also assist supported employment providers in training, contract negotiations and procurement, costing, cash advancements against billing, no interest loans, credit checks and collections, public relations, consultations, goods development, market research, networking, industry referrals, production, management, contract administration, liaison with government, and other duties as specified by the council. Payment, if any, for such assistance shall be by agreement with the individual supported employment provider.

D. The Council shall establish rates for marketing services to be charged to the supported employment provider by the central nonprofit agency.

E. Purchase orders may be issued by the appropriate purchasing agency for suitable goods and services directly to a supported employment provider with copies to a central nonprofit agency. Provisions may also be made to issue purchase orders directly to the central nonprofit agency which will in turn make payment to the supported employment provider.

F. If such assistance is authorized in the designation, the Council may instruct the central nonprofit agency to assist it in carrying out certain specified Council responsibilities.

G. Central nonprofit agency will submit annually a detailed written report of its program and budget to the council. This report shall include:

1. the number of disabled persons according to their type of disability who are employed by supported employment providers participating the program for the purchase of goods and services;

2. the amount of annual wages paid to persons participating in the program;

3. a summary of the sale of goods offered by the supported employment providers;

4. a list of goods and services offered by the supported employment providers;

5. the geographic distribution of the supported employment providers;

6. other information specified by the council for its determination of rates for marketing services to be charged the supported employment providers by the central nonprofit agency;

7. information regarding the financial operations and conditions of the central nonprofit;

8. a report of the extent to which activities were performed in accordance with 911.C above;

9. the number of persons with disabilities who transitioned to individual or supported employment opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§913. Suspension and Reinstatement of a Supported Employment Provider

A. The council, after notice and a hearing may suspend a supported employment provider from its right to receive purchase orders from this program for suitable goods and services under any or all of the following circumstances:

1. failure of delivered goods and services to meet or exceed specification;

2. failure to deliver ordered goods and services as required in the specifications.

B. The council may reinstate a supported employment provider after a suspension only if the council makes an affirmative finding on each of the following:

1. that the supported employment provider has reimbursed the state for damages suffered by reason of any of the failures giving rise to suspension;

2. that the supported employment provider has made the necessary corrections to avoid these failures in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§915. Value Added

A. A supported employment provider may not act merely as a receiving and shipping facility, except under circumstances as approved by the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§917. Inspections

A. The appropriate purchasing agency, at its option, may monitor supported employment provider manufacturing activities for compliance with specifications under existing contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§919. Records

A. The records of the council and of any nonprofit agency participating in this program which pertain to state purchases of the goods and services of individuals with disabilities, shall be made available upon request to the inspection of representatives of the Legislative Auditor, Office of the Inspector General, the Division of Administration, Office of Planning and Budget, or the Legislative Fiscal Office on the assurance that the information will be safeguarded, used only for the purpose for which provided, and not released to unauthorized persons.

B. A request for information for other records of the council which identifies individuals with disabilities as a state agency client or former client will be forwarded to LDH for review.

C. LDH is the depository for all records concerning the Council's operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1604.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

§921. Exceptions

A. Exceptions from the operation of the mandatory provisions of these rules may be made in any case where under the rules of the state purchasing agency, the goods or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency.

B. No office, department, institution, or agency may evade the intent of these rules by slight variations from standards adopted by the appropriate purchasing agency, when the goods or services produced or provided by individuals with disabilities, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1504.4 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976

(November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:

Family Impact Statement

In compliance with Act 1183 of the 199 Regular Legislative 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 not have an adverse impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Legislative Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an adverse impact on child, individual and family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

After considering House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments about the proposed Rule to Carol Lee, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. Ms. Lee is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is on January 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, however, such request must be received no later than 4:30 p.m. on January 8, 2021. If the criteria set forth in R.S. 49:953 (A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 27, 2021 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested parties should first call Allen Enger at 225-342-1342 after January 8, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the

Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Council on the Purchase of Goods and Services of Individuals with Disabilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that OCDD will expend \$950 SGF in FY 21 associated with promulgating the rule. The proposed rule change is pursuant to ACT 312 of the 2019 Regular Legislative Session and includes changes to remove references to sheltered workshops and replace them with supported employment provider and make technical changes.

Additionally, the proposed changes will likely result in an indeterminable increase in state expenditures for each new organization that will qualify for an exemption from the competitive bid process. More organizations may qualify for an exemption due to the expansion of preference given to organizations that employ individuals with behavioral, developmental, sensory, or intellectual disabilities and reduce the required ratio of direct labor by individuals with disabilities from no less than 75% to no less than 40%. The number of additional organizations that will qualify for an exemption cannot be determined. Also, giving preference to these organizations may increase costs to the state if the goods or services could have been purchased at a lower price from a different provider through the competitive bid process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change reduces the required ratio of direct labor by individuals with disabilities while expanding the admissible list of disorders that may contribute to the ratio. This is anticipated to expand the category of organizations that are eligible to claim the New Jobs corporate income tax credit and increase the volume of sales eligible for the Sheltered Workshops sales tax exemption. An increase of unknown magnitude in claims for these tax benefits is thus anticipated, which will result in a corresponding decrease to the state general fund and local funds. The extent of the decrease will depend on the number of additional workers determined eligible for employment under supported employment providers and the number of organizations that take advantage of the relaxed requirements to be designated a supported employment provider.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will likely result in more organizations being classified as supported employment providers. Supported employment providers are exempt from the state of Louisiana's competitive bid process, which provides the economic benefit of being given preference for state contracts. Additionally, to the extent there is greater access to employment for individuals with disabilities, these individuals and their families may enjoy the economic benefit of additional income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to provide individuals with developmental disabilities greater access to

employment opportunities. Additionally, more organizations may qualify for an exemption from the competitive bid process due to the expansion of preference given to organizations that employ individuals with behavioral, developmental, sensory or intellectual disabilities and the reduction of the required ratio of direct labor by individuals with disabilities from no less than 75% to no less than 40%. The number of additional organizations that will qualify for an exemption cannot be determined.

Julie Fisher Hagan
Assistant Secretary
2012#030

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Louisiana Lottery Corporation

On-Line and Instant Lottery Games (LAC 42:XV.Chapters 1 and 7)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9000 et seq., hereby gives notice of its intent to amend the rules pertaining to the operations of on-line lottery games, LAC 42:XV.Chapter 1, to allow the Louisiana Lottery Corporation to offer the on-line lottery game "Pick 5", and the rules pertaining to instant lottery games, LAC 42:XV.Chapter 7, to allow the Louisiana Lottery Corporation to offer instant terminal games.

During the last regular session, the Legislature amended the Lottery statute changing the minimum transfer to the Lottery Proceeds Fund from 35 percent to 25 percent of gross revenues effective, August 1, 2020. The change was designed to allow the Corporation to increase prizes, and as a result, increase sales and total dollar transfers to the Lottery Proceeds Fund.

The Corporation has researched products in the lottery industry with higher prize structures and solid sales performance.

Instant Terminal Games are currently offered in 19 jurisdictions throughout the United States. These products offer the players an opportunity to request a ticket at the lottery terminal and determine instantly if they have won. These Instant Terminal Games provide a higher prize structure for the players resulting in increased net sales and more transfers to the Lottery Proceeds Fund.

For the past 6 years, the Corporation has seen the numbers games, Pick 3 and Pick 4, increase in sales by over 25 percent. These games represent the fastest growing draw style product line. Pick 5 is designed to build upon this success, providing higher net sales and more transfers to the Lottery Proceeds Fund.

Title 42

LOUISIANA GAMING

Part XV. Lottery

Chapter 1. On-Line Lottery Games General Rules

§103. Definitions

A. ...

Claim Form—the printed or digital form provided by the corporation to be completed by prize winners when claiming a prize.

Free Ticket—a lottery prize for which the winner is entitled to another ticket or tickets equivalent to the cash value of the free ticket prize.

* * *

Lotto—repealed.

Numbers Game—repealed.

Official Lottery Retailer—any person with whom the corporation has contracted to sell on-line game tickets to the public.

On-Line Game Ticket—an official ticket issued by the corporation in connection with any on-line lottery game, produced by an Official Lottery retailer in an authorized manner, bearing player or computer selected numbers, figures and/or characters representing the type of wager, drawing date, amount of wager, and validation data.

* * *

On-Line Retailer—repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, amended October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:64 (January 1997), amended LR 33:2418 (November 2007), LR 47:

§105. General Provisions

A. These game rules authorize the corporation to offer the following on-line lottery games.

1. Pick 3 Daily Game. A game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. Lotto. A game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. Easy 5. A game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

4. Cash Quest. A game providing a player multiple sets of four numbers out of a specified field of numbers, the winner being determined by a drawing.

5. Pick 4 Game. A game permitting a player to choose a four-digit number, the winner being determined by a drawing.

6. Raffle Lottery Game. A series of raffle lottery games which will commence at the discretion of the president, and will continue until the president publicly announces a suspension or termination date. A limited number of tickets or chances, each unique from all others, will be offered for the opportunity to win one of a number of predetermined and announced prizes.

7. Pick 5 Game. A game permitting a player to choose a five-digit number, the winner being determined by a drawing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, amended October 21, 1994, promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:63 (January 1997), amended LR 24:1762 (September 1998), LR 33:2418 (November 2007), LR 47:

§107. Probability of Winning

A. The overall probability of winning any prize in a particular game (expressed as "odds" of winning as that term is commonly used in the lottery industry) will be contained in the game directive for that game and shall be included in the promotional materials for the game. The statement of "odds" does not need to specify the "odds" of winning each particular prize. The corporation shall make every attempt to release accurate "odds" information for each on-line lottery game.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, October 22, 1992 and promulgated in *The Advocate*, November 3, 1992, repromulgated LR 23:64 (January 1997), amended LR 47:

§123. Claim Form

A. For any prize of more than \$600, the owner of the apparent winning ticket shall complete an official claim form (printed or digital) that requires the winner to provide:

A.1. - C. ...

D. Formal recognition of partnership play will be required. Formal recognition shall include, but shall not be limited to, production of a partnership agreement or memorandum thereof listing the names of all partners. The corporation must also be furnished a federal employer's identification number for the partnership entity. Each such recognized partnership shall receive a single annual installment payment payable to the partnership.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997), amended LR 47:

§127. Installment Prizes

A. The corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize amount is paid in installments, the president may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The corporation shall not accelerate the payment schedule of any installment prize without the consent of the winner.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on February 18, 1992 and promulgated in *The Advocate*, February 28, 1992, repromulgated LR 23:66 (January 1997), amended LR 26:703 (April 2000), LR 47:

§129. Merchandise Prizes

A. If a noncash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the state and the IRS for tax purposes. The corporation may pay withholding taxes on behalf of the winner in accordance with federal and state rules. The corporation will not be responsible for any other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation, February 18, 1992 and promulgated in *The Advocate*,

February 28, 1992, amended October 21, 1994 and promulgated in *The Advocate*, October 28, 1994, repromulgated LR 23:66 (January 1997), amended LR 47:

Chapter 7. Instant Lottery Games General Rules

§703. Definitions

A. ...

Bar Code—the representation of ticket and validation information in bar code form on the back and/or front of each instant lottery ticket.

Captions—the printed verification of each play symbol which may appear in the game play area below the play symbol.

Claim Form—the printed or digital form provided by the corporation to be completed by prize winners when claiming a prize.

Free Ticket—a lottery prize for which the winner is entitled to another ticket or tickets equivalent to the cash value of the free ticket prize.

Game Number—the designation of each game for purposes of inventory control and accounting.

Game Play Area—the area on the front or back of the ticket that contains the computer-generated symbols that determine winning or non-winning tickets according to game specifications.

Grand Drawing—repealed.

Grand Drawing Finalist—repealed.

Instant Lottery Game—the two distinct types of games, instant scratch-off game and instant terminal game, whereby a player can immediately determine whether the player has won a prize.

Instant Scratch-Off Game—a lottery game that offers pre-printed tickets that, after a coating is rubbed off, indicate immediately whether a player has won a prize.

Instant Terminal Game—a game which is played using ticket-generating terminals linked to a central computer, whereby a player can immediately determine whether the player has won a prize.

Omitted Pack—any pack of instant scratch-off tickets that has been removed from the game during production.

Overprint—the scratch-off coating over the play area and the information printed on its surface of instant scratch-off tickets.

Pack—a set of instant tickets, each bearing a common pack number, fan folded in strips of five tickets. Each pack will contain the tickets or some other number of tickets determined by the corporation for a particular game.

Pack/Ticket Number—the series of digits visible on the ticket that designates the number of the particular pack and the sequential number of each ticket in a scratch-off ticket game.

Play Symbols (or Prize Symbols)—a series of alphabetic or numeric characters or symbols appearing in the game play area of an instant ticket that are utilized in each game to determine winning tickets.

Preliminary Drawing—an event in which qualified entrants are selected at random to participate in a drawing event.

Prize Structure—the authorized itemization of prize levels and number of winners contained in the working papers or game directives of each game.

Quality Control Symbol—repealed.

Retailer Validation Code—repealed.

Promotional Drawing—a special event designed by the corporation to award a large top prize and subordinate prizes through a random process.

Promotional Drawing Finalist—a contestant in a drawing event.

Security Omit—a pack of instant scratch-off tickets omitted from the game for security purposes, temporarily or permanently.

Security Patterns (or BenDay)—repealed.

Ticket Number—the number appearing on the ticket.

Validation Files—the computer files provided by the ticket printer that contain the information required to determine if a ticket is the winner of any prize.

Validation Number—the number within the play area of the ticket, covered by a scratch-off coating, that may be utilized to determine whether the ticket is a winner in the computerized validation process.

Validation Tapes—repealed.

Zip Cash—repealed.

Zip Cash Terminal—repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:699 (April 2000), amended LR 47:

§705. General

A. These game rules shall apply to all instant lottery games offered by the corporation upon adoption by the board. Any change in these rules must be approved by the board, and will take effect upon approval. The detailed information regarding each specific instant game will be contained in a game directive promulgated by the president. Each game directive will include the appropriate prize amounts, the game symbols required to win each prize, and any unique play format information or claim requirements. The game directive cannot be in conflict with these game rules. Each game directive will be distributed to and posted at every corporation office and will be available for public inspection during the sales period of the particular game. The directive must be approved and signed by the president days prior to the start of the game. The president shall also promulgate drawing directives that prescribe the operational details of preliminary drawings, grand drawings, and any other special promotional drawings in which a prize of more than \$5,000 is offered.

B. Promulgation shall be similar to that prescribed for game directives. The drawing directive must be approved and signed by the president prior to the drawing event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:700 (April 2000).

§707. Odds of Winning

A. The overall odds of winning any prize in a particular game will be contained in the game directive for that game and shall be included in the promotional materials for the game or printed on the back of the ticket. The statement of odds does not need to specify the odds of winning each particular prize. The corporation shall make every attempt to release accurate odds information for each instant lottery game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:701 (April 2000).

§713. Payment of Prizes

A. Instant lottery game prizes will be paid in accordance with game directives and retailer regulations, and upon submission of a valid winning instant ticket, payment will be made to the person submitting the ticket for payment. The owner of an instant ticket bears the sole responsibility for the risk of loss or theft of the ticket. If an instant ticket is claimed by the owner in error for a lower prize than that to which the owner is entitled, the corporation shall not be liable to the owner for the higher prize not claimed. Any ticket on which the name of the owner is altered, or appears to have been altered, may be impounded by the corporation without payment to the claimant until ownership of the ticket can be determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:701 (April 2000), amended LR 47:

§725. Claim Form

A. For any prize of more than \$600, the owner of the apparent winning ticket shall complete an official claim form (printed or digital) that requires the winner to provide:

1. - 3. ...

B. No prize payment will be authorized if the required information is not provided by the claimant. The corporation will utilize due diligence to insure that the information provided on the claim form is correct, including information contained on a driver's license, Social Security card or other forms of information. The name of the owner printed on the back of the ticket must correspond with the name of the claimant.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:702 (April 2000), amended LR 47:

§727. Assignability

A. - A.2. ...

B. A promotional drawing finalist may not assign or sell the right to participate in the promotional drawing, nor can two or more finalists enter into an advance agreement to split their winnings following the promotional drawing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:702 (April 2000), amended LR 47:

§729. Installment Prizes

A. The corporation may provide for the payment of any prize of more than \$100,000 in equal annual installments. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount. When the prize is paid in installments, the president may round the actual amount of the prize to the nearest \$1,000 amount to facilitate the appropriate funding mechanism. The corporation shall not accelerate the payment schedule of any installment prize without the consent of the winner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:702 (April 2000), amended LR 47:

§731. Merchandise Prizes

A. If a non-cash prize is offered, the value of the prize will be determined by the fair market value of any such prize, which will be the amount reported to the state and the IRS for tax purposes. The corporation may pay withholding taxes on behalf of the winner in accordance with federal and state rules. The corporation will not be responsible for any state taxes or other fees associated with the prize.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:

§733. Preliminary Drawings

A. The president shall promulgate a drawing directive that details the procedures involved in conducting a random drawing to determine promotional drawing finalists. The directive shall specify the qualifications for valid promotional drawing entries and a methodology for the random pre-selection of entries for purposes of the preliminary drawing, if required. The president shall exercise care in making certain that any procedures devised for finalist selection are totally fair and random, and that no entry has a greater opportunity for selection than any other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:

§735. Promotional Drawings

A. The president shall promulgate a drawing directive that details the procedure for conducting any promotional drawing, including the prizes to be offered, the drawing method, and the equipment to be utilized. The president shall exercise care to insure a totally random drawing process that

results in the selection of prize winners in a method that favors none of the participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:

§737. Independent Auditor

A. All drawing events, including preliminary drawings and promotional drawings, shall be witnessed by an independent auditing firm. The independent auditor shall attest to the fact that procedures for the drawing were properly disseminated and that the procedures were followed, and shall make note of any exceptions to the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on August 8, 1991 and promulgated in the *State Times* on August 15, 1991, repromulgated LR 26:703 (April 2000), amended LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through January 10, 2021, to John Carruth, General Counsel, P. O. Box 90008, Baton Rouge, LA, 70879.

Rose J. Hudson
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: On-Line and Instant Lottery Games

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Lottery Corporation was created by La. R.S. 47:9000 et seq. and exists as a quasi-public corporation. All costs of the corporation are funded by revenue generated by the corporation. The additional games that will be offered as a result of this rule are the Instant Terminal Games and Pick 5. The costs to operate these new games, including prize expense, retailer commissions, and online vendor commissions are expenses that fluctuate directly with the volume of sales. For the Instant Terminal Games, these expenses represent approximately 76.23% of sales or \$9.6 million based on

projected sales of \$12.6 million in the first year and \$16.7 million annually for subsequent years based on projected annual sales of \$21.9 million. For Pick 5, these expenses represent 58.23% of net projected sales or \$1.0 million based on net projected sales of \$1.7 million in the first year. These expenses total \$4.6 million and \$5.3 million for each subsequent year based on net projected sales of \$7.9 million and \$9.2 million, respectively. The automated draw machines will need to be modified for the Pick 5 game requiring \$90,000 in additional costs in FY 22 to test the software changes to the automated draw machines.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of local governmental units. The Instant Terminal Games and Pick 5 are projected to generate an additional \$14.3 million in net revenue for the first year and approximately \$30 million in net revenue for the subsequent years. The Corporation projects an additional \$4.7 million in transfers to the Lottery Proceeds Fund in the first year and \$9.5 million in additional Lottery Proceeds in subsequent years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Retailers are projected to earn approximately 5.63% on the sale of lottery products, or \$807,634 in the first year and \$1.7 million annually in subsequent years.

Lottery players as a group are projected to exhibit changes to their overall lottery ticket purchases ranging from no net change to additional net total purchases of \$12.6 million for Fast Play in the first year to \$21.9 million in subsequent years and additional net purchases of \$1.7 million for Pick 5 in the first year and \$7.9 million and \$9.2 million, respectively, for the next two years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated significant effect on competition and employment.

Rose J. Hudson
President
2012#015

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

General Provisions
(LAC 22:V.Chapters 2 and XI.Chapters 1, 5, and 7)

Editor's Note: This Notice of Intent is being repromulgated to correct a manifest error upon submission. The original Notice of Intent may be viewed in the November 20, 2020 edition of the *Louisiana Register* on pages 1627-1634.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: XI: 102, 103, 121, 501, 504, 513, 514 and 705. These proposed rule changes provide technical adjustment for regular parole and revise procedures. Section 102 provides clarification for notifying victims and their next of kin. Section 103 the structure of the Board of Pardons, Committee on Parole and the participation of the ex-officio member. Section 121 allows the Executive Director to speak on behalf of the Chairman in their absence. Section 501 adds the five-

member panel as an option for hearings. Section 504 and 513 outline additional procedures for screening, removing or rescinding offenders who have disciplinary issues prior to a hearing or after a decision to grant parole but prior to release. Section 514 provides additional guidance for votes required in various situations. Section 705 streamlines the Rehearing Application Process and strengthens the Committee's abilities to remove offenders with poor disciplinary conduct who are not good candidates for early release.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: V: 203, 205 and 211. Section 203 removes the condition of employment from pardon eligibility in the event the offender is unable to work due to medical and or mental health issues. Section 205 provides instruction on accepting clemency applications online. Section 211 clarifies the vote need related to a clemency recommendation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 2. Clemency

§203. Eligibility for Clemency Consideration

A. - C.2. ...

3. An incarcerated offender who is not serving a life sentence, but who is serving a sentence for a violent offense as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, may request a commutation of sentence:

- a. after having served a minimum of 10 years;
- b. must have been disciplinary report free for a period of at least 24 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and
- c. must not be classified to a maximum custody status at the time of the application or at the time of the hearing (if a hearing is granted); and
- d. must possess a marketable job skill, either through previous employment history or through successful completion of vocational training while incarcerated, unless deemed unable to work due to medical or mental health condition.

D. Life Sentences. An offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty. The 15 years shall include periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment. The offender must also meet the criteria stated in Subparagraphs C.3.a-d of this Section.

E. Capital Cases. Any offender sentenced to death may submit an application within one year from the date of the direct appeal denial. See also §213, Capital Cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:1087 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:574 (March

2018), amended by the Office of the Governor, Board of Pardons, LR 44:1006 (June 2018), LR 47:

§205. Application Filing Procedures

A. - A.4. ...

5. The mailed application must be filled out completely, signed, dated, and notarized where required.

6. The online application must be digitally signed and submitted through the website.

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and have the signature of a classification officer verifying the conduct of the applicant and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants who have completed parole supervision must attach a copy of their parole certificate, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

3. Probationers. Applicants who have completed the probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an automatic first offender pardon must attach a copy of the automatic first offender pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below.

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply five years after the initial denial and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any

form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. When no action is taken by the governor on a recommendation for clemency issued by the board, the person seeking clemency shall not be required to reapply to the board and the recommendation shall not expire upon the expiration of the governor's term in office and may be reviewed by the next governor to take office.

i. Upon receipt of the no action files from the governor's office, the parole board staff shall review the following:

- (a). offender's disciplinary record; and;
- (b). State Police rap sheet;

ii. Staff will use the updated information to determine if the applicant is still eligible to apply for clemency.

iii. Once approved, the file will be sent back to the governor's office within six months of being received, with a recommendation to the governor from the pardon board, signed by the board chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons, LR 42:1087 (July 2016), LR 43:1161 (June 2017), LR 45:1063 (August 2019), LR 47:

§211. Hearings before the Pardon Board

A. - H. ...

I. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise the board of their inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

J. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

1. If a favorable clemency recommendation is reached during a pardon hearing, any other specific recommendation regarding clemency (i.e., restoration of firearms privileges, commutation of sentence to a specified number of years, commutation of sentence with or without parole eligibility) shall be based on a majority vote of those members who voted to recommend clemency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:574 (March 2018), LR 44:2140 (December 2018), LR 47:

Part XI. Committee on Parole

Chapter 1. Administration

§102. Powers and Duties of the Committee

A. -A.5. ...

6. notify the district attorney of the parish where the conviction occurred:

a. the district attorney of the parish where the conviction occurred shall be allowed to review the record of the offender since incarceration, including but not limited to any educational or vocational training, rehabilitative program participation, disciplinary conduct and risk assessment score. The district attorney shall be allowed to present testimony to the committee and submit information relevant to the proceedings.;

7. notify the victim, or the spouse, or next of kin of a deceased victim, when the offender is scheduled for a parole hearing;

8. when requested to do so, notify, in writing at least seven days prior to the offender's release on parole, the chief of police, sheriff, or district attorney of the parish where the offender will reside and where the conviction(s) occurred;

9. submit an annual report on its performance to the secretary of the Department of Public Safety and Corrections on or before February 1 each year for the previous calendar year. This report shall include statistical and other data with respect to the work committee may make of sentencing, parole, or related functions, and may include recommendations for changes considered necessary to improve its effectiveness.

B. The Louisiana Committee on Parole may:

1. apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry;

2. take testimony under oath, either at a hearing or by deposition;

3. sanction an offender's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications with the offender's parole application, notice for which shall be provided to the offender at, or prior to, the commencement of proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2258 (August 2013), amended LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:575 (March 2018), LR 47:

§103. Composition of the Committee

A. The Louisiana Committee on Parole (Committee) shall consist of seven members:

1. the five members of the Board of Pardons appointed by the governor;

2. two-at-large appointees to the Committee on Parole appointed by the governor, who shall serve only as members of the committee and shall not serve as members of the Board of Pardons; and

3. one ex-officio member.

a. The warden, or in their absence, the deputy warden of the correctional facility in which the offender is incarcerated shall be an ex-officio member of the committee. When the offender is housed in a local correctional facility and the warden or deputy warden of that facility is not able to attend the offender's parole hearing, the warden, or in his absence, the deputy warden, of the facility where the offender's parole hearing is held, may serve as an ex-officio member of the committee. The Ex-Officio member shall not be a voting member nor shall they be counted or permitted to be counted for purposes of the number of members necessary to take committee action or the number of members necessary to establish quorum.

b. The facility Warden or his/her designee, of the local level facility in which the offender is housed, shall be present to provide information to members of the Parole Board regarding the offender's progress and disciplinary infractions during incarceration.

4. Each member shall, except the ex officio member, devote full time to the duties of the office.

B. The chairman of the board shall be the chief administrative officer for the committee and shall be responsible for assuring that all meetings, hearings and administrative matters for the committee are properly conducted in accordance with law and with these rules or executive order.

C. The vice-chairman of the Board of Pardons shall act in place of the chairman in his or her absence and shall be responsible for any other administrative duties as directed by the chairman or as provided by law or executive order. In the event that the vice-chairman is incapacitated or otherwise unable to perform his or her duties for any reason, the chairman shall perform such duties until the vice-chairman is able to resume performance of his or her duties.

D. All members, except the ex-officio member, appointed after August 1, 2014 shall possess not less than a bachelor's degree from an accredited college or university, and shall possess not less than five years' actual experience in the field of corrections, law enforcement, sociology, law, education, social work, medicine, psychology, psychiatry, or a combination thereof. If a member does not have a bachelor's degree from an accredited college or university, he shall have no less than seven years, experience in a field listed in this Subsection. The provisions of this Subsection shall not apply to any person serving as a member of the board on August 1, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), amended by Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013), LR 41:43 (January 2015), LR 47:

§121. Committee Spokesperson

A. The chairman is the official spokesperson for the board. In the absence of the chairman, the executive director is authorized to speak on behalf of the board. When acting as the official spokesperson, views expressed at all times shall be consistent with approved board policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013), LR 47:

Chapter 5. Meetings and Hearings of the Committee on Parole

§501. Types of Meetings

A. All meetings and hearings of the committee shall be open to the public, in accordance with the provisions of R.S. 42:1 et seq., (public policy for open meetings) and *Robert's Rules of Order*. For the purpose of convenience and in order to differentiate between the different types of forums for conducting business, the following designation or title has been given, depending upon the nature of the matters or actions to be considered.

1. A *business meeting* is a meeting of the full committee to discuss all general business matters as set forth in §507.

2. A *public hearing* is a meeting of randomly selected, three or five-member panels, as set forth in §511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013), LR 41:44 (January 2015), LR 47:

§504. General Procedures

A. Minutes. The committee's minutes of public hearings shall include the following information as applicable:

1. name and Department of Corrections (DOC) number of the offender;

2. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);

3. the vote of each member; and

4. the decision of the committee.

B. Votes

1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.M, §513.A.1-3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. Accuracy of Vote. The chairperson of the panel shall ensure that support staff reviews case records subsequent to voting to assure the accuracy of all documents.

D. Continuance/Recess. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. Executive Session. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. Observance of Proceedings. The committee may extend invitations to individuals to observe committee proceedings.

G. Testimony. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. Children Under 12. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. Space and Security. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. Meeting/Hearing Schedule. The chairman shall be responsible for schedules of business meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

K. Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of the decision granted by the committee or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

1. The board may choose to automatically rescind and change the decision for granting of parole under the below conditions:

a. offender has received a disciplinary report prior or subsequent to the hearing, but prior to parole release;

b. time calculation adjustments by the Department of Corrections that changes the parole eligibility date, causing the offender to become ineligible for parole or pushing his parole eligibility dates beyond the allowed time frame for parole release or rescheduling;

c. refusing to comply with post and/or prior to release conditions set forth by the panel.

2. If it is determined prior to an offender's parole release that proper notification requirements were not met, the board may rescind its decision to grant parole.

a. If the board rescinds its decision to grant parole, the offender shall promptly receive another parole hearing.

b. In the event that the offender has been granted parole, the board may rescind its decision and promptly schedule a hearing in accordance with §510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 45:1063 (August 2019), amended LR 46:42 (January 2020), LR 47:

§511. Panel Action

A. The chairman shall schedule public hearings. A copy of the schedule shall be available for public inspection at the committee office.

B.1. The panel may consider the following actions with the offender present:

a. parole;

b. revocation; and

c. recommendations for transitional work program.

2. The panel may consider the following actions without the offender present:

a. to consider rehearing requests;

b. cases where the offender is housed in a medical treatment facility or facility in other jurisdiction (such hearings conducted in absentia shall observe the same safeguards as hearings where the offender is present); and

c. to consider those matters referred by a member from single-member action (see §513, Single Member Action); the member who makes such a referral may not serve on the panel;

d. to evaluate and consider any application filed pursuant to R.S. 15:308 in accordance with rules promulgated by the Department of Public Safety and Corrections and Chapter 8, Ameliorative Penalty Consideration.

C. Offenders incarcerated in a parish jail or parish correctional center may be interviewed by a single member of the Committee on Parole prior to a public parole hearing. The interviewing member will then present the case to the full parole panel for parole release consideration during the public parole hearing. Due to transport considerations, the offender will not be present during the public hearing. However, the public hearing will be conducted in a manner which allows for observation and input by members of the public.

D. Generally, public hearings shall be conducted via videoconferencing, with the committee members participating from the committee's headquarters in Baton Rouge, and offenders appearing before the committee via videoconferencing at the designated prison facility.

1. In the event the offender is unable to appear before the board due to a medical condition, a medical professional shall be made available to the parole panel to provide information about the offender's medical condition. The hearing will occur in absentia. (§511.B.2.a. if offender being considered for medical parole is housed in a medical treatment facility).

2. In the case of videoconferencing, the family, friends, and attorney of the offender shall be at the location of the offender.

3. In the case of videoconferencing, the victim(s) may be at the location of the committee or at the office of the district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:57 (January 2014), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:45 (January 2015), LR 47:

§513. Single-Member Action

A.1. A single committee member may act upon the following matters which have been reviewed and recommended by the Division of Probation and Parole:

- a. activity reports (see §1103); and
- b. activity reports from other states via the interstate compact agreement;
- c. consideration to delay an offender's revocation hearing beyond 60 calendar days of the offender's return to prison (arrest or detainment), but such a delay may only be authorized by a committee member for good cause.

2. A single committee member may rescind parole as under the conditions provided in §504, General Procedures.

3. The duty officer may add or remove conditions relative to parolees, as recommended by the Division of Probation and Parole and/or committee counsel on matters in litigation.

a. In the event the committee member fails to follow the recommendation of the Division of Probation and Parole, the matter shall be automatically scheduled for consideration by a three-member panel at the next available public hearing date.

B. Written documentation must be placed in the offender's file which clearly documents the reason for the decision by the single member panel.

C. Under no circumstances should a committee member sign a blank form concerning single-member action matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), LR 40:1528 (August 2014), re-promulgated LR 40:1695 (September 2014), LR 47:

§514. Voting/Votes Required

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

4. A unanimous vote is required to consider any action when the offender is not present as described in §511.B.2.b or §513.A.4.a., except when the criteria set forth in §511 is met, voting requirements shall remain in effect as outlined in this policy.

5. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

B. Majority Vote

1. The committee may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met.

a. The offender has not been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of conviction.

b. The offender has not committed any major disciplinary (schedule B) offenses in the 12 consecutive months prior to the parole hearing date. If the offender's period of incarceration is less than 12 months, the offender must not have committed any disciplinary offenses during his/her entire period of incarceration.

c. The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with R.S. 15:827.1, if such programming is available at the facility where the offender is incarcerated.

d. The offender has completed substance abuse treatment as applicable, if such programming is available at the facility where the offender is incarcerated.

e. The offender has obtained a HSE credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a HSE credential due to a learning disability. If the offender is deemed incapable of obtaining a HSE credential, the offender must complete at least one of the following:

- i. a literacy program;
- ii. an adult basic education program; or
- iii. a job skills training program.

f. The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

2. A majority vote is required to revoke parole.

3. A majority vote is required to continue or recess a meeting or hearing.

4. A majority vote is required to grant an offender's request for a rehearing.

5. A majority vote is required for executive session.

6. A majority vote is required to recommend to the Board of Pardons as to whether an applicant is eligible for a reduction in sentence pursuant to R.S. 15:308 and Chapter 8, Ameliorative Penalty Consideration.

C. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

D. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release.

E. The ex officio member of the committee is a non-voting member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), amended LR 41:45 (January 2015), LR 44:2142 (December 2018), LR 47:

Chapter 7. Parole Decisions

§705. Application for Parole Rehearing or Request for Reconsideration of Decision

A. If denied at the initial parole hearing, an offender must apply in writing for a subsequent parole hearing, referred to as a "parole rehearing". The written request must be submitted by the offender or his attorney.

B. Application for a parole rehearing will be allowed only under the following conditions.

1. The offender must not have had a major (schedule B) disciplinary misconduct report in the six months prior to the reapplication request;
2. The offender must not have been in disciplinary lockdown status for a period of six months prior to the reapplication request.
3. If both criteria in §705.C.1 and 2 are met, an offender may apply to the committee for a rehearing at the following intervals.

Type of Crime	Initial Request for Rehearing	Subsequent request for Rehearing ¹
Nonviolent, except as otherwise restricted	6 mos after original date of denial	6 mos after date of initial reapplication
Crime of Violence enumerated in R.S. 14:2(B)	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Crime Against Person enumerated in R.S. 14:29-47	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Sex Offense as defined in §903	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Murder, 1st or 2nd degree	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Manslaughter	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication

¹ Subsequent request for rehearing may be submitted if initial request for rehearing was denied.

D. Reconsideration. An offender may request that the committee reconsider its decision to deny parole as outlined herein. However, this process does not establish a formal appeal process as parole is an administrative discretionary decision that is not subject to appeal.

1. A parole panel may reconsider a decision of any parole panel at the request of the board chairman.
2. An offender whose parole is denied or rescinded, or whose parole supervision is revoked may request reconsideration by the committee.
 - a. The request for reconsideration shall be made in writing by the offender (or the offender's authorized legal representative) and shall be postmarked no later than twenty-one calendar days from the date of the hearing during which the parole panel action was taken.
 - b. If the request for reconsideration is not postmarked within 21 calendar days, it shall be denied.
 - c. Reconsideration review shall be at the discretion of the committee and shall not be available except for the following reasons:
 - ii. if there is an allegation of misconduct by a committee member that is substantiated by the record;

- ii. if there is a significant procedural error by a committee member; or
- iii. if there is significant new evidence that was not available when the hearing was conducted. A request based on the availability of new evidence or information shall be accompanied by adequate documentation.
 - d. A request based on an allegation of misconduct or significant procedural error shall clearly indicate the specific misconduct or procedural error being alleged.
 - e. A written request for reconsideration postmarked within the time period set forth in §705.D.2.a. shall be screened by the chairman or designee to determine whether the request for reconsideration raises substantial grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. may be present. The request for reconsideration shall be denied by the chairman or designee, if in his or her discretion, it is determined that the request does not raise adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. are present.

3. If the chairman or designee determines upon screening that a request for reconsideration raises adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c are present.

- a. The case shall be set for administrative review at the next available parole panel hearing date. The review shall be conducted from the record of the first hearing. The appearance of the offender shall not be necessary.
- b. The reviewing panel may vote to:
 - i. grant a new parole hearing and staff will make every attempt to schedule the hearing with a different parole panel than that which rendered the original decision; or
 - ii. affirm the original decision.
- c. The applicant shall be advised, in writing, of the results of the review.

4. If the chairman or designee determine there is no basis to grant the request for reconsideration, the applicant will be advised in writing.

E. Disciplinary Removals

1. If the Offender has one or more major (Schedule B) Disciplinary Report(s) in the 12 months prior to their parole eligibility date, they will generally not be considered a good risk for early release and will, therefore, not be given parole consideration until such time as the offender has been disciplinary report free for twelve consecutive months. Offenders may be removed from a parole docket if they receive a Schedule B Disciplinary Report during the investigation period. The offender will be notified if they are not considered for placement on or removed from a docket.

- a. The offender may request reconsideration of this decision in writing in accordance with the process outlined in this policy. Such request must include any mitigating factors that the offender wishes be considered during the review process.
- b. The offender is responsible for notifying the board in writing when they are disciplinary report free for 12 consecutive months to be reconsidered for scheduling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board

of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:1065 (August 2019), LR 47:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Elizabeth Traylor, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on December 10, 2020.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not have a fiscal impact on state or local governmental unit expenditures.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: XI: 102, 103, 121, 501, 504, 513, 514 and 705. These proposed rule changes provide technical adjustment for regular parole and revise procedures. Section 102 provides clarification for notifying victims and their next of kin. Section 103 updates the structure of the Board of Pardons, Committee on Parole and the participation of the ex-officio member. Section 121 allows the Executive Director to speak on behalf of the Chairman in their absence. Section 501 adds the five-member panel as an option for hearings. Section 504 and 513 outline additional procedures for screening, removing or rescinding offenders who have disciplinary issues prior to a hearing or after a decision to grant parole but prior to release. Section 514 provides additional guidance for votes required in various situations. Section 705 streamlines the Rehearing Application Process and strengthens the Committee's abilities to remove offenders with poor disciplinary conduct who are not good candidates for early release.

Additionally, in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22: V: 203, 205 and 211. Section 203 removes the condition of employment from pardon eligibility in the event the offender is unable to work due to medical and or mental health issues. Section 205 provides instruction on accepting clemency applications online. Section 211 clarifies the vote need related to a clemency recommendation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Thomas C. Bickham, III
Undersecretary
2012#006

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Class I-E Permit
(LAC 55:IX.Chapter 1)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, proposes to amend LAC 55:IX.Chapter 1, as authorized by R.S. 40:1846 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, to create an additional Class I permit, the Class I-E permit, the provisions of which are applicable to emergencies and/or disasters. In particular, LAC 55:IX.Chapter 1, Section 107, is being amended to permit nonresidents in other jurisdictions to enter any phase of the liquefied petroleum gas business during an emergency and/or disaster, only after the Commission has reached a reciprocal agreement with the liquefied petroleum gas regulating authority of the state in which the permit applicant resides. The Class I-E permit is an exception to the Class I permit, as it omits the requirement that holders of the permit provide a storage capacity for liquefied petroleum gas of not less than 15,000 gallons in one location, under fence, located within the dealer trade area within the state of Louisiana. It also excludes the requirement that the permit holder show evidence of ownership of the storage tank, or in the alternative, a bona fide lease of five years minimum. This requirement is not applicable due to the fact that the Class I-E permit is only valid during an emergency and/or disaster and is issued for a period of 90 days. However, the permit may be renewed, prior to its expiration date, during the course of the emergency and/or disaster that it was initially applied for.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

A. The following terms, as used in this Part, have the meanings listed below.

Disaster—the result of a natural or man-made event which causes loss of life, injury, and property damage, including but not limited to natural disasters such as a hurricane, tornado, storm, flood, high winds, and other

weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents, hazardous materials incidents, oil spills, explosion, civil disturbances, public calamity, acts of terrorism, hostile military action, and other events related hereto.

* * *

Emergency—the actual or threatened condition which has been or may be created by a disaster or; any natural or man-made event which results in an interruption in the delivery of utility services to any consumer of such services and which affects the safety, health, or welfare of a Louisiana resident; or

a. any instance in which a utility's property is damaged and such damage creates a dangerous condition to the public;

b. any national or state emergency, including acts of terrorism or a congressional authorization or presidential declaration pursuant to the War Powers Resolution (50 U.S.C. 1541 et seq.).

* * *

State of Emergency or Disaster—any event declared by the governor of the state by his authority under the "Louisiana Homeland Security and Emergency Assistance and Disaster Act" under R.S. 29:721 et seq.

* * *

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, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007, LR 36:2571 (November 2010), LR 38:1255 (May 2012), LR 47:

§107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. Shall deposit filing fee of \$100 for Class I, I-E, IV and VI; \$50 for class VI-X and \$25 for all remaining permits. This fee shall accompany the application.

2. - 5.b....

c. Each location of Class I, Class I-E, Class VI and Class VIII dealers, which fill DOT specification cylinders of 200 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales).

6. Applicants shall have paid a permit fee in the amount of \$150, Class I-E and Class III which shall be \$500 and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$150, except registrations shall be \$37.50 per year.

6.a. - 10. ...

11. Applicants for change of name shall deposit a filing fee of \$25 with a formal application for a name change. The office of the director shall administratively grant the name change after all commission requirements are met. The commission shall ratify the name change at the next commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation shall be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency shall be changed to new name, except Class VI-X which does not require certificates of competency.

12. ...

13. The commission shall grant Class I and Class I-E Liquefied Petroleum Gas permits to nonresident applicants only after the commission has reached a reciprocal agreement with the Liquefied Petroleum Gas regulating authority of the state in which the applicant resides.

14. - 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 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016), LR 43:967 (May 2017), LR 46:188 (February 2020), LR 47:

§109. Compliance with Rules

A. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement for all permit holders.

B. - D. ...

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, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 25:2411 (December 1999), LR 31:2567 (October 2005), LR 38:1259 (May 2012), LR 46:188 (February 2020), LR 47:

§111. Re-Application

A. Any person, firm or corporation who has made application for a permit to enter the liquefied petroleum gas business and whose request for permit has been denied, may resubmit a permit application 90 days after the date of denial, with the exception of a Class I-E permit application. Any person, firm or corporation who has made application for a Class I-E permit to enter the liquefied petroleum gas business and whose request for permit has been denied, may

resubmit a permit application any time during the same disaster and/or emergency that the initial permit application was submitted to the commission.

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 7:633 (December 1981), LR 38 1259 (May 2012), LR 47:

§113. Classes of Permits and Registrations

A. - A.1.f. ...

2. Class I-E. Holders of these permits may enter any phase of the liquefied petroleum gas business. These permits shall only be granted during an emergency and/or disaster. These permits are valid for 90 days from the date of issuance. Permits may be renewed prior to the expiration date of the permit during the course of the emergency and/or disaster that it was initially applied for.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Where fuel is used direct from cargo tank, an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

e. The name of the dealer shall appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer. At consumer premises, where the tank or the container is owned by the dealer, the dealer's name shall be affixed. This requirement is considered met if documentation is provided, upon demand, that the dealer's name was affixed at the time of installation. Consumer premises requirement is not retroactive.

3. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class is also applicable to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, modular homes, manufactured homes, motor homes, travel trailers homes or any other recreational vehicles.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

- i. products;
- ii. manufacturers and contractors; and
- iii. motor vehicle liability.

b. Louisiana manufacturers and dealers of mobile homes, manufactured homes, modular homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, modular homes, manufacture homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, manufactured homes, modular homes, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative shall be sent to the office of the director verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home, manufactured homes, modular homes or recreational vehicle dealer or entity performing functions as a dealer shall have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

4. Class III. Brokers/Special Vendors. Holders of these permits may purchase liquefied petroleum gas only from dealers who hold a valid liquefied petroleum gas permit and resell the aforementioned purchased liquefied petroleum gas product to end users utilizing floor maintenance machines and/or industrial trucks (forklifts) on their premises. Holders of these permits shall not deliver gas or engage in repairing liquefied petroleum gas containers or systems.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Shall submit a completed "location approval form" for each physical location being served, with a handling fee of \$150 for each location being served.

c. Compliance with all other statutes, rules and regulations is a mandatory requirement.

d. Shall provide 24-hour emergency contact information at each liquefied petroleum gas storage location. The person deemed the emergency contact shall have basic knowledge regarding liquefied petroleum gas emergencies and shall maintain contact information per the servicing liquefied petroleum gas supplier.

e. The Class III permit holder shall post the servicing liquefied petroleum gas supplier's name (name on Louisiana liquefied petroleum gas permit) at each liquefied petroleum gas storage site and each end user's location.

5. Class IV. Resellers (Wholesalers). Holders of these permits may deliver and transport liquefied petroleum gas over the highways of the state; may sell liquefied petroleum gases only to manufacturers of liquefied petroleum gases, or manufacturers of products which liquefied petroleum gases form a component part, or to dealers who hold a permit with this commission; utilize aboveground steel storage and/or approved salt dome, shale and other underground caverns for the storage of liquefied petroleum gases; do general maintenance work on their equipment, using qualified personnel, but shall not sell or install systems and appliances.

a. Shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 coverage per:

i. products;
ii. manufacturers and contractors; and
iii. automobile liability.
b. The name of the dealer shall appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

6. Class V. Carburetion Permit. Holders of these permits may install equipment, including containers, and service liquefied petroleum gas equipment used on internal combustion engines. They shall not deliver liquefied petroleum gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per manufacturers and contractors liability coverage.

b. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

7. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. The name of the dealer shall appear on storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

8. Class VI-X. Holders of these permits may engage in the exchange of approved liquefied petroleum gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon receipt of the application and filing fee, permit shall be issued.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

9. Class VII. Holders of these permits may transport liquefied petroleum gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per automobile liability coverage.

b. Where fuel is used direct from cargo tank, an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. The name of the dealer shall appear on all tank trucks which require registration with the commission.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

10. Reserved.

11. Class VIII. Holders of these permits may store, transport and sell liquefied petroleum gas used solely in the cutting and metal working industry, sell and install piping and containers for those gases and engage in the filling of approved ASME tanks, ICC or DOT containers used in the metal working industry.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products, manufacturers and contractors, and automobile liability coverage.

b. The name of the dealer shall appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

12. Class IX. Holders of these permits may inspect, recertify and recondition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Holders of these permits shall obtain from DOT a retesters identification number, and provide proof of such to the commission.

b. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

c. Holders of these permits shall provide drawing and description of equipment to be installed to retest cylinders. Drawing and description shall be submitted to the office of the director for his approval before installation.

d. Holders of these permits shall maintain an accurate log of all cylinders that have been retested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

e. Compliance with all other applicable statutes, rules and regulations is a mandatory requirement.

13. Registration 1 (R-1). Holders of these registrations shall be a person, firm, or corporation who is engaged in the business of plumbing and holds a master plumber's license issued by the state of Louisiana. They may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following:

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per manufacturers and contractors liability coverage.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989 is a mandatory requirement.

c. Compliance with all other applicable statutes, rules and regulations of the commission is a mandatory requirement.

14. Registration 2 (R-2). Holders of these registrations shall be a person, firm, or corporation engaged in the mechanical contracting business. They may install liquefied petroleum gas and/or anhydrous ammonia appliances and equipment, and make alterations or modifications to existing liquefied petroleum gas and/or anhydrous ammonia appliances and equipment. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following:

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products and manufacturers and contractors liability coverage.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989 is a mandatory requirement.

c. Compliance with all other applicable statutes, rules and regulations of the commission is a mandatory requirement.

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, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:701 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007, LR 38:1259 (May 2012), LR 41:395 (February 2015), LR 43:967 (May 2017), LR 46:188 (February 2020), LR 47:

Subchapter B. Dealers

§119. Permit Fees

A. All fees pursuant to R.S. 40:1849 shall be paid before a new permit will be issued each year, with the exception of a Class I-E permit. For a Class I-E permit, all fees shall be paid prior to a renewal permit being issued by the commission.

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, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 38:1262 (May 2012), LR 47:

§131. Compliance with Rules

A. Compliance with all other statutes, rules and regulations will be required for all permit holders.

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, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 47:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family formation/functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

As described in HCR 170 of the 2014 Regular Legislative Session, the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted via the U.S. Mail to Melinda L. Long, Department of Public Safety, Office of Legal Affairs, P.O. Box 66614, Baton Rouge, LA 70896. Written comments may also be hand-delivered to Melinda L. Long, Department of Public Safety, Office of Legal Affairs, 7979 Independence Boulevard, Suite 308, Baton Rouge, LA 70806. All written comments are required to be signed by the person submitting the comments, dated, and received on or before January 11, 2021 at 4:30 p.m.

John W. Alario
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Class I-E Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in additional costs or savings for state or local governmental units. The proposed rule change creates an additional Class I permit, the Class I-E permit, which is an exception to the Class I

permit, applicable to non-resident applicants during emergencies and/or disasters, and issued for 90 days.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in an indeterminable impact on revenue collections for Liquid Petroleum Gas Commission. To receive a Class I-E permit, non-residents must pay a \$100 filing fee and a \$500 permit fee. Revenue collections are indeterminable because it is unknown how many non-resident permits would be applied for and issued during an emergency and/or disaster, or how many emergencies and/or disasters there would potentially be in a year. The proposed rule changes are not anticipated to effect local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of the proposed rule will benefit businesses and residences that need propane during emergencies and/or disasters. During emergencies and/or disasters, if current propane businesses are inoperable, the proposed rule allows permitting of non-resident propane businesses to deliver propane to businesses and residents that are needed to power generators or transient housing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to effect competition and employment. The proposed rule will provide for the permitting of non-residents to enter into any phase of the liquefied petroleum gas business in Louisiana only during an emergency and/or disaster when current Louisiana propane businesses are inoperable and their employees displaced. The proposed rule is not applicable outside of emergency or disaster situations.

Lt. Col. Jason Starnes
Deputy Superintendent
2012#033

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

**Transporter License/Modular Homes
(LAC 55:V.Chapter 5)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 51:911.26(E) and (F)(11), the Department of Public Safety and Corrections, Office of State Fire Marshal, Manufactured Housing Commission proposes to amend LAC 55:V.Chapter 5. The proposed amendment reflects statutory changes, including the Commission's regulation of modular homes, the installation of said homes and the implementation of a transporter's license.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 5. Manufactured and Modular Housing

Subchapter A. General Requirements

§501. Definitions

A. In the regulations which follow, unless contract otherwise requires.

Add-On—any structure (except a structure designed or produced as an integral part of a manufactured or modular home) which, when attached to the basic home unit,

increases the area, either living or storage, of the manufactured home.

Alteration—the replacement, addition, modification or removal of any equipment or installation after sale by a manufacturer to a retailer, dealer or distributor but prior to sale by a retailer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat producing, or electrical system. It includes any modification made in the home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring connection to an electrical receptacle, where the replacement item is of the same configuration and ratings as the one being replaced. It also does not include an addition of an appliance requiring plug-in to an electrical receptacle, which appliance was not provided with the home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

Component—any part, material or appliance which is built in as an integral part of the manufactured or modular home during the manufacturing process.

Dealer—any person engaged in the sale, leasing, or distribution of new manufactured or modular homes primarily to persons who in good faith purchase or lease home for purposes other than resale.

Developer—any person, group of persons, firm, partnership, corporation, association, company, or legal entity who sells or offers for sale to the public a lot together with a manufactured home permanently installed and fixed on a foundation on the lot and designed as a single family residence. Developer shall include "contractors" and "residential contractors" as defined in R.S. 37:2157. Developer shall not include an individual selling his personal residence, or a real estate broker or real estate salesman retained by a person to sell a manufactured home together with a lot which the manufactured home has been installed and fixed on a foundation.

Distributor—any person engaged in the sale and distribution of manufactured or modular housing for resale.

Manufactured Home—a new or used structure, transportable in one or more sections, which is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating and air conditioning, and electrical systems contained therein. For purposes of LAC 55:V.Chapter 5, the terms "manufactured home" and "manufactured housing" may be used interchangeably and apply only to structures bearing the permanently affixed seal of the U.S. Department of Housing and Urban Development.

Manufactured Housing—Repealed.

Modular Home—a factory-built, residential dwelling unit built to the *International Residential Code* as adopted by the Louisiana State Uniform Construction Code Council.

Manufacturer—any person engaged in manufacturing or assembling manufactured or modular housing, including any person engaged in importing homes for resale.

* * *

Purchaser—the first person purchasing a manufactured or modular home in good faith for purposes other than resale.

* * *

Retailer—any person who is engaged wholly or in part in the business of buying, selling, distributing, brokering, or exchanging an interest in a manufactured or modular home with the intent to make a profit, monetary gain, or anything of economic value. Any person who buys, sells, distributes, brokers, or exchanges an interest in more than one such manufactured or modular home in any twelve-month period shall be presumed to be a retailer.

Salesman—any person employed by a Louisiana licensed retailer or developer for purposes of selling manufactured or modular housing to the public.

* * *

Transporter—an individual who transports a manufactured or modular home to a site of installation but does not perform any blocking or anchoring of the home, except a transporter is allowed to put blocks under the hitch on the tongue of the frame.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 8:17 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1693 (December 1997), LR 38:3235 (December 2012), LR 47:

§502. Manufacturer Requirements

A. "Manufacturer" means any person who manufactures manufactured or modular housing.

B. Monthly Report

1. A manufacturer shall electronically submit a monthly manufacturer's report of the previous month's shipments to the Office of State Fire Marshal by the tenth day of the following month.

2. A report shall be filed every month, despite the fact that no homes were shipped.

3. Reports shall be submitted on forms provided by the Office of State Fire Marshal and the manufacturer shall specify all information requested thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 47:

§503. Retailer Requirements

A. A retail location of new manufactured or modular homes shall have a sign, a listed land line telephone, a public office, which will only be used to sell or offer for sale manufactured or modular homes, a minimum inventory of eight homes, or a letter of intent, and a product line. The office shall be staffed with at least one employee who is a Louisiana licensed salesman during all times that the office is opened for business.

B. A retail location of used manufactured or modular homes shall have a sign, a listed land line telephone and a public office which will only be used to sell or offer for sale manufactured or modular homes. The office shall be staffed

with at least one employee who is a Louisiana licensed salesman during all times that the office is opened for business.

C. Retailers of used manufactured or modular homes are any person engaged in the sale, leasing, or distribution of manufactured or modular homes primarily to a person who in good faith purchases manufactured or modular homes for purposes other than resale.

D. The sign required by this section shall contain the full name of the retailer as it appears on the current license issued by the Commission. The sign shall be visible to the public as they travel on the street or highway on which the retailer is located. No part of the sign shall be concealed or obstructed from view.

E. Monthly Report

1. A retailer shall electronically submit a retailer's monthly retailer report of the previous month's sales to the Office of State Fire Marshal by the tenth day of the following month.

2. A report shall be filed every month, despite the fact that no homes were sold.

3. Reports shall be submitted on forms provided by the Office of State Fire Marshal and the retailer shall specify all information requested thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 38:3236 (December 2012), amended LR 47:

§504. Developer Requirements

A. "Developer" means any person, group of persons, firm, partnership, corporation, association, company, or legal entity who sells or offers for sale to the public a lot together with a manufactured home permanently installed and fixed on a foundation on the lot and designed as a single family residence. For purposes of this Part, "developer" shall include "contractors" and "residential contractors" as defined in R.S. 37:2157.

B. "Developer" shall not include an individual selling his personal residence, or a real estate broker or real estate salesman retained by a person to sell a manufactured or modular home together with a lot on which the manufactured or modular home has been installed and fixed on a foundation.

C. Monthly Report

1. A developer shall electronically submit a developer's monthly report of the previous month's sales to the Office of State Fire Marshal by the tenth day of the following month.

2. A report shall be filed every month, despite the fact that no homes were sold.

3. Reports shall be submitted on forms provided by the Office of State Fire Marshal and the developer shall specify all information requested thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 47:

§505. Inspections

A. The Uniform Standards Code for Manufactured Housing and Modular Housing, R.S. 51:911.32, allows employees and personnel under contract to the state fire marshal to enter, at a reasonable time, any factory,

warehouse or establishment in which manufactured or modular houses are manufactured, stored or held for sale, for the purpose of ascertaining whether housing construction and safety standards have been and are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 8:16 (January 1982), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 23:1694 (December 1997), LR 47:

§507. Handling of Consumer Complaints

A. - A.6. ...

6. Where the manufacturer fails to respond to the notice of preliminary determination or if the state fire marshal's inspector decides that the views and evidence presented by the manufacturer are insufficient to rebut the preliminary determination, the state fire marshal may make a final determination that a defect or noncompliance exists and will notify the manufacturer to make a notification and submit a plan in accordance with 24 CFR Section 3282.409. Within 10 days after receipt of the notice of final determination, the manufacturer may appeal to the secretary of the United States Department of Housing and Urban Development.

7. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 8:17 (January 1982), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 23:1694 (December 1997), LR 38 3236 (December 2012), LR 46:

Subchapter B. Manufactured and Modular Housing (Installation)

§521. Definitions

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

Installation—the construction of a foundation system and the placement or erection of a manufactured or modular home on the foundation system. Installation includes, without limitation, supporting, blocking, leveling, securing, or anchoring such home and connecting multiple or expandable sections of such home together and to the foundation.

Installation Permit—a permit issued by the fire marshal to a licensed installer or the homeowner who shall certify that the home is in compliance with this Part.

Installer—a person responsible for the installation of a manufactured home or modular home and who is required to obtain a license pursuant to the provisions of R.S. 51:912.

Manufactured Home—a new or used structure transportable in one or more sections, which is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating and air conditioning, and electrical systems contained therein. For purposes of LAC 55:V.Chapter 5, the

terms “*manufactured home*” and “*manufactured housing*” may be used interchangeably and apply only to structures bearing the permanently affixed seal of the U.S. Department of Housing and Urban Development.

Modular Home—a factory-built, residential dwelling unit built to the International Residential Code as adopted by the Louisiana State Uniform Construction Code Council.

Manufacturer—any person who constructs or assembles manufactured or modular housing.

Retailer—any person who is engaged wholly or in part in the business of buying, selling, distributing, brokering, or exchanging an interest in a manufactured or modular home with the intent to make a profit, monetary gain, or anything of economic value. Any person who buys, sells, distributes, brokers, or exchanges an interest in more than one such manufactured or modular home in any twelve-month period shall be presumed to be a retailer.

Salesman—any person employed by a retailer for purposes of selling manufactured and/or modular housing to the public.

Transporter—an individual who transports a manufactured or modular home to the site of installation but does not perform any blocking and/or anchoring of the home, except a transporter is allowed to put blocks under the hitch on the tongue of the frame. However, individuals who transport manufactured or modular homes from the factory to the retailer's location are exempt from this definition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:695 (April 1998), amended LR 26:2009 (September 2000), LR 38:3237 (December 2012), LR 47:

§523. General

A. - C. ...

D. An applicant's license may be granted administratively if all requirements are met and there are no felony arrests on the applicant's criminal background.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:696 (April 1998), amended LR 38:3237 (December 2012), LR 47:

§525. License Exceptions

A. Notwithstanding the provisions of LAC 55:V.523, the following individuals are not required to have an installer's license as provided therein:

1. when the individual installing the manufactured or modular home is the owner thereof, or the manufactured or modular home is owned by a member of the individual's immediate family, and the manufactured or modular home is not intended for sale, exchange, lease, or rent;

2. an individual installing additional blocking for support;

3. an individual installing a manufactured or modular home when the manufactured or modular home is installed on a retailer's, distributor's, or manufacturer's sales or storage lot or at a show and is not occupied or intended to be occupied. This exemption does not include those manufactured or modular homes installed in manufactured or modular homes parks or manufactured or modular homes subdivisions;

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:696 (April 1998), amended LR 38:3237 (December 2012), LR 47:

§526. Manufactured and Modular Housing Transporter's License

A. Individuals engaged in transporting a manufactured or modular home are required to have a transporter's license as provided herein:

B. In addition to the completed application form and license fee of \$125.00, an applicant shall provide the following:

1. personal identification;
2. proof of worker's' compensation insurance and
3. proof of vehicle liability and cargo insurance as required by law.

C. If an individual transporter does not have any employees, proof of workers' compensation insurance is not required. An affidavit attesting to such shall be submitted in lieu of proof of worker's compensation insurance. The affidavit may be requested from the Louisiana Manufactured Housing Commission.

D. Monthly Report

1. An transporter shall electronically submit a monthly transporter's report of the previous month's transports to the Office of State Fire Marshal by the tenth day of the following month.

2. A report shall be filed every month, despite the fact that no homes were transported.

3. Reports shall be submitted on forms provided by the Office of State Fire Marshal and the transporter shall specify all information requested thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 47:

§527. Manufactured and Modular Housing Installer's License

A. Effective May 1, 1998, a manufactured or modular home may not be installed without a licensed manufactured or modular housing installer supervising installation work being performed. The licensed manufactured or modular housing installer is responsible for the reading, understanding, and following of the manufacturer's installation instructions and performance of non-licensed workers engaged in the installation of the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:696 (April 1998), amended LR 38:3237 (December 2012), LR 47:

§529. Requirements for Installer's License

A. To be licensed as a manufactured or modular housing installer, an applicant shall have at least one year's experience installing manufactured or modular homes.

B. - C.1. ...

2. proof of workers' compensation insurance;
3. proof of vehicle liability and cargo insurance as required by law.

D. If an individual installer does not have any employees, proof of workers' compensation insurance is not required. An affidavit attesting to such shall be submitted in lieu of proof of worker's compensation insurance. The affidavit may be requested from the Louisiana Manufactured Housing Commission.

E. After January 1, 1999, in addition to the requirement of §529.A, B, and C, the application must include a certificate of completion as evidence of having attended and received a passing grade in a fire marshal-approved manufactured housing installation education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:696 (April 1998), amended LR 47:

§531. Installer's Responsibilities and Limits

A. Work covered by an installer's license shall be limited to:

1. installing manufactured or modular homes in accordance with applicable statutes, administrative rules and regulations, adopted codes, and standards;

2. - 4. ...

5. supervising individuals installing manufactured or modular homes.

B. An installer shall:

1. assure the manufactured or modular home is in compliance with the Louisiana Uniform Standard Code for Manufactured Housing and Modular Housing;

2. - 3. ...

4. assure the manufactured or modular home installation is in compliance with the applicable statutes, rules and regulations, adopted codes, and standards;

5. - 8. ...

9. utilize the standard transportation and installation contract issued by the Office of State Fire Marshal to indicate what services were done and cost of those services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:696 (April 1998), amended LR 47:

§535. Monthly Report

A. An installer shall electronically submit a monthly installation report of the previous month's installations to the Office of State Fire Marshal by the tenth day of the following month.

B. ...

C. Reports shall be submitted on forms provided by the Office of State Fire Marshal and the installer shall specify all information requested thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:697 (April 1998), amended LR 26:2009 (September 2000), LR 38:3237 (December 2012), LR 47:

§537. Issuance and Possession of License

A. A manufactured or modular home installer's license shall be issued to the person named on the application and shall be nontransferable.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:697 (April 1998); amended LR

§539. License Renewal

A. - C. ...

D. A license renewal application shall be submitted to the fire marshal prior to the expiration date of the license. Persons wishing to apply for a license after their license has expired shall reapply for a new license and meet all requirements of a new applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:697 (April 1998), amended LR 38:3237 (December 2012), LR 47:

§543. License Suspension or Revocation; Imposition of Civil Penalties

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

2. First offense of the following violations:

a. failure to properly set up and install the manufactured or modular home—\$500.

C. The schedule of fines shall be as follows:

1. performance of any installation services under the Uniform Standards Code for Manufactured Housing and Modular Housing by a non-licensed person excluding a homeowner—\$1,000;

2. - 3. ...

4. soliciting or contracting for service from unlicensed installer or transporter by a retailer, homeowner, or other party—\$1,000;

5. holding oneself or one's business out for hire to perform any installation or transport service or otherwise offering to perform any such task by an unlicensed installer or transporter—\$1,000;

6. failure to properly complete and electronically file monthly installation report timely with all information required—\$100;

7. the re-inspection report indicates that the required corrections were not made to home after the installer notified the Office of State Fire Marshal that the corrective work was done—\$750 and

8. installing a manufactured or modular home in an improper wind zone—\$1,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:697 (April 1998), amended LR 26:2009 (September 2000), LR 38:3237 (December 2012), LR 47:

§544. Habitual Offender

A. A habitual offender is someone who has been cited for the same violation five or more times within a 12-month period.

1. If the commission determines a violation was intentional or the violator is a habitual offender, the commission may:

a. double the civil penalty up to \$5,000 for each violation;

b. require installer to retake class and/or

c. suspend license for 30, 60, or 90 days or revoke license indefinitely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:912.29.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 47:

§545. Education: Requirements, Installer's and Transporter's License

A. Beginning January 1, 1999, all licensed installers shall attend at least one fire marshal-approved installation continuing education class per calendar year. Beginning January 1, 2022, all licensed transporters shall attend at least one fire marshal approved transportation continuing education class.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:698 (April 1998), amended LR 47:

§547. Course Curriculum Requirements for Education Provider Training

A. ...

B. The course curriculum for manufactured house installers and transporters shall, at a minimum, include the following area of training:

1. definitions, as provided in the "Louisiana Minimum Standards for Installation of Manufactured and Modular Homes and Transportation Requirements" law;

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:698 (April 1998), amended LR 38:3238 (December 2012), LR 47:

§551. Inspections by the Office of State Fire Marshal

A. Upon request for inspection by a Louisiana licensed retailer, manufacturer, installer, transporter, or the homeowner, the Office of State Fire Marshal shall inspect the home to determine compliance with the applicable sections of R.S. 51:912.21-R.S. 912.28 regarding installation and transportation.

B. Upon completion of the requested inspection the Office of State Fire Marshal shall present to the requesting party and the homeowner an inspection report indicating the findings of said inspection.

C. The requesting party shall reimburse the Office of State Fire Marshal for the inspection in accordance with the provisions of R.S. 51:911.32(3).

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32(A)(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 24:698 (April 1998), amended LR 38:3238 (December 2012), LR 47:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family formation/functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

As described in HCR 170 of the 2014 Regular Legislative Session, the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted via the U.S. Mail to Melinda L. Long, Department of Public Safety, Office of Legal Affairs, P.O. Box 66614, Baton Rouge, LA 70896. Written comments may also be hand-delivered to Melinda L. Long, Department of Public Safety, Office of Legal Affairs, 7979 Independence Boulevard, Suite 308, Baton Rouge, LA 70806. All written comments are required to be signed by the person submitting the comments, dated, and received on or before January 11, 2021 at 4:30 p.m.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Transporter License/Modular Homes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in additional costs or savings for state or local governmental units. In accordance with Act 221 of the 2017 Regular Session, the proposed rule change creates a transporter license and promulgates regulations regarding modular homes that include increased civil penalties for habitual offenders, and other technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase revenue collections for LA Manufactured Housing Commission. The Commission estimates there are approximately 30 transporter businesses in the state. The license fee is \$125 annually. Therefore, there is an estimated increase in revenue of \$3,750 annually (\$125 license fee x 30 estimated transporter). Also, the proposed rule

allows the LA Manufactured Housing Commission to double penalty amounts, up to \$5,000 per violation, if the commission determines the violation was by a repeat offender. The number of civil penalties that may occur in a given year is unknown, therefore the associated revenue increase is indeterminable. The proposed rule changes are not anticipated to effect local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of the proposed rule is anticipated to impact directly affected persons who are transporters of manufactured and/or modular homes who must pay an annual license fee. A transporter's license costs \$125 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to effect competition and employment.

Lt. Col. Jason Starnes
Deputy Superintendent
2012#034

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Direct Delivery of Alcohol Public Safety Regulations
(LAC 55:VII.Chapter 8)

Editor's Note: This Notice of Intent is being repromulgated to correct a procedural submission error. The original Notice of Intent may be viewed in the September 20, 2020 *Louisiana Register* on pages 1319-1324.

Under the authority of R.S. 26:153, 26:307(E), 308(I), and in accordance with the provisions of the Administrative Procedure Act. R.S. 49:950, et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to enact LAC 55:VII.801-807, relative to the regulation of direct delivery of alcoholic beverages within the state of Louisiana.

The proposed enactment of the above-referenced rule is offered under the authority delegated in R.S. 26:307(E) and 26:308(I) to allow ATC the ability to properly permit, authorize, and regulate the sale and distribution of alcoholic beverages. The proposed Rule will address direct delivery matters not otherwise addressed by existing law or regulations.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 8. Direct Delivery of Alcohol Public Safety Regulations

§801. General Direct Delivery Requirements

A. Prior to any alcohol retailer or third party alcohol delivery service engaging in the delivery of alcoholic beverages, same shall obtain an alcoholic beverage delivery permit from the Commissioner of the Office of Alcohol and Tobacco Control and shall adhere to the following requirements.

1. Only alcoholic beverages intended for personal consumption and delivered in a manufacturer sealed container may be offered for delivery. *Manufacturer sealed container* as used in this chapter shall mean the original

sealed container that is filled with the alcoholic beverage at the permitted facility by the manufacturer as defined in R.S. 26:2(12) and 241(10). The delivery of an *open alcoholic beverage container* as defined by R.S. 32:300 is prohibited;

2. Delivery shall be permitted only in those areas where the sale of alcoholic beverages is permitted. Delivery shall be prohibited in any area where it has been prohibited by a referendum vote or the local governing authority.

3. Delivery by a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located and shall be made only to a residential or commercial address. Third party delivery radius shall be determined by the parish population. For any parish having a population of less than 100,000 according to the latest federal decennial census, no alcoholic beverages shall be delivered more than 25 miles from the place of purchase. For any parish having a population of greater than 100,000 according to the latest federal decennial census, no alcoholic beverages shall be delivered more than 10 miles from the place of purchase.

4. Orders for alcohol delivery of any type may only be accepted and processed if the permitted premises receiving the order has actual physical possession of the alcoholic beverage being ordered on the physical premises at the time the order is accepted and can fulfilled the order from stock on-hand.

5. The alcoholic beverages of all deliveries which are refused by a third party or incapable of being delivered for any reason shall be returned to the place of purchase.

6. Alcohol beverage delivery permit holders must verify that a consumer placing an order for alcohol delivery is of legal drinking age.

7. Alcoholic beverages shall not be delivered:

a. to an address on the campus of any elementary school, secondary school, university, college, technical college, or institute;

b. to any public playground or building used primarily as a church, synagogue, mosque, or public library;

c. outside of the hour that the retailer's physical premises are open to the public;

d. without verifying that the recipient is not visibly intoxicated;

e. without obtaining the signature of the recipient verifying that the receipt of the delivery of alcohol and their age.

8. Alcoholic beverage delivery permit holders shall keep and retain a record of all deliveries of alcoholic beverages for a period of three years from the date of delivery and shall make such records available to the Commissioner of Alcohol and Tobacco Control, and her agents and assigns, upon request. The record of each delivery shall include:

a. the retail dealers name, address, and permit number;

b. the name of the person who placed the order and the date, time, and method of order;

c. the name of the employee or delivery agent making the delivery and the date, time, and address of the delivery;

d. the type, brand, and quantity of each alcoholic beverage delivered; and

e. the name, date of birth, and signature of the person that received the delivery.

9. Parishes and municipalities may require and issue local direct delivery of alcohol permits similar to those issued by the Commissioner of Alcohol and Tobacco Control.

10. All persons delivering alcoholic beverages under an alcoholic beverage permit shall be 21 years of age or older, be the permittee or their employee or agents for which the permittee is required to file an Internal Revenue Service Form W-2 or 1099.

11. Persons delivering alcoholic beverages under an alcoholic beverage delivery permit shall refuse delivery and return the alcoholic beverages to the place of purchase if:

a. the recipient does not produce a valid and current form of identification as identified in Paragraph G.5 of this Section;

b. there is reason to doubt the authenticity or correctness of the recipient's identification;

c. the recipient refuses to sign for the receipt of the delivery; or

d. the recipient is intoxicated.

12. If an alcohol retailer's alcohol permit is revoked, suspended, or lapsed, then that retailer's alcoholic beverage delivery permit shall also be considered to be revoked, suspended, or lapsed and delivery of alcohol beverages shall immediately cease for that particular retailer until permit is deemed valid and current.

13. Third party delivery company or the third party platform shall maintain a commercial general liability insurance policy with a liquor liability endorsement with a minimum coverage amount of \$1,000,000 for the duration of the alcoholic beverage delivery permit and they shall provide proof of coverage to the retail dealer and Commissioner of Alcohol and Tobacco Control upon request.

14. The permittee shall require all delivery drivers to maintain vehicle general liability insurance on any and all vehicles permittee or its agent may use for deliveries as required by State law for the duration of the alcoholic beverage delivery permit and they shall provide proof of coverage to the Commissioner of the Office of Alcohol and Tobacco Control upon request.

15. Class B or class AR retailers who engage the services of third party alcohol delivery service to deliver alcohol for them, must notify the Commissioner of the Office of Alcohol and Tobacco Control in writing within 10 days of executing or terminating an agreement with a third party alcohol delivery service to deliver alcohol by providing a copy of the agreement and/or termination notice directly to the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:307(E).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§803. Package Store Retail Alcohol Delivery Permit

A. Retailers holding a valid class B retail liquor permit, retailers holding a valid class C retail liquor permit, and retailers holding a valid retail liquor permit that allows for off-premises consumption shall be allowed to apply for, obtain, and maintain a class P retail alcohol delivery permit

pursuant to this particular regulation (§803) and they shall adhere to the following requirements in addition to the general requirements otherwise enumerated in this Chapter:

B. The Commissioner of Alcohol and Tobacco shall collect the initial and annual licensure fee for class P retail alcohol delivery permits in the amount of \$250 and same shall expire and be renewable at the same time as the holder's alcohol permit.

C. Each and every order for the delivery of alcoholic beverages received by a class P retail alcohol delivery permit holder shall include food with each order.

D. All alcohol delivery transactions initiated by a consumer shall be processed, assembled, packaged, and fulfilled at the retailer's permitted physical premises wherein the order was received. All transactions can be processed, assembled, packaged, and fulfilled by the permittee, a W-2 employee of the permittee, a third party, a third party platform, or an authorized agent.

E. Deliveries to consumers shall only be made by the permittee, a W-2 employee of the permittee, a third party, a third party platform, or an authorized agent.

F. Alcoholic beverages shall not be delivered without verifying the identity and age of the recipient by reading a valid state-issued photo identification card, valid military identification card, valid passport of the person, or through the use of a real-time electronic age verification device or application shall be approved by the Commissioner of Alcohol and Tobacco Control.

G. Notwithstanding any law, rule, or regulation to the contrary, the permittee may use electronic means to market, receive, and process orders for alcohol products.

H. The permittee may market, receive, and process orders for alcohol products using electronic means owned, operated, and maintained by a third party, provided that:

1. the permittee maintains ultimate control and responsibility over the sales transaction, the transfer of the physical possession of the alcoholic beverages, and the collection and remittance of all applicable state and local taxes;

2. the permittee retains the sole discretion to determine whether to accept and complete an order or reject it and the permittee, or a W-2 employee of the permittee, reviews, and accepts or rejects each order;

3. the permittee retains the independence to determine which alcoholic beverages are made available through electronic means and which alcoholic beverages are made available for delivery to the consumer either at their licensed physical premises itself or at another address designated by the consumer;

4. the permittee independently sets the price of alcoholic beverages being offered for delivery;

5. any credit or debit card information provided by a consumer to the third party for the purpose of transacting a purchase is automatically directed to the permittee such that the transaction takes place between the consumer and the permittee and the permittee appears as the retail dealer at the time of purchase and the receipt;

6. the permittee, or a W-2 employee of the permittee, shall process at the physical premises that accepted the orders and payments initiated by a consumer;

7. the relationship between the permittee and the third party shall be one of independent contractors and neither

party shall be deemed the employee, or joint venture of the other party under any circumstances or for any purposes;

8. the third party shall not deal, handle, sell, offer for sale, or possess for sale alcoholic beverages or process payments for the sale of alcoholic beverages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:307(E).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§805. Restaurant Retail Alcohol Delivery Permit

A. Retailers holding a class AR retail liquor permit shall be allowed to apply for and obtain a class R retail alcohol delivery permit pursuant to this particular regulation (§805) and they shall adhere to the following requirements in addition to the general requirements otherwise enumerated in this Chapter.

B. The Commissioner of Alcohol and Tobacco shall collect an initial and annual licensure fee for class R retail alcohol delivery permits in the amount of \$250 and same shall expire and be renewable at the same time as the holder's alcohol permit.

C. Only malt beverages, sparkling wine, and still wine, as defined in R.S. 26:2 and 241 may be offered for delivery. No alcohol beverages shall be offered for curbside pickup unless otherwise authorized under law, a separate rule, or guidance. All deliveries containing alcoholic beverages shall also include food. Alcohol and food purchased from a class AR retailer for delivery shall be included in its gross average monthly sales figures for purposes ensuring that an AR retailer meets its 50 percent food or food items requirement under R.S. 26:73(C)(1)(a). However, pursuant to R.S. 26:73(C)(2), sparkling or still wine delivered by the bottle in conjunction with food shall not be considered an alcoholic beverage when determining gross revenue for purposes of R.S. 26:73(C)(1)(a).

D. No alcohol shall be delivered more than 10 miles from the place of purchased for any parish having a population greater than 100,000 according to the latest federal decennial census. Additionally, no alcohol shall be delivered more than 25 miles from the place of purchase for any parish having a population of less than 100,000 according to the latest federal decennial census.

E. All alcohol delivery transactions initiated by a consumer shall be processed, assembled, packaged, and fulfilled at the retailer's permitted physical premises wherein the order was received by the permittee or a W-2 employee of the permittee.

F. Deliveries to consumers shall be made by the permittee or agents for which the permittee is required to file an Internal Revenue Service Form W-2 or 1099.

G. At the time of delivery of alcoholic beverages, the permittee shall obtain the recipient's signature and verify the age of the recipient through the use of an electronic age verification device or combination of devices that shall be approved by the Commissioner of Alcohol and Tobacco Control. Such devices shall be capable of all of the following:

1. verifying proof of age through technology of a magnetic card reader or an alternative technology capable of verifying proof of age;

2. reading a valid state-issued driver's license, a valid state-issued identification card, a valid military identification card, or a valid passport;

3. storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned.

H. Notwithstanding any law, rule, or regulation to the contrary, the permittee may use electronic means to market, receive, and process orders for alcohol products.

I. The permittee may market, receive, and process orders for alcohol products using electronic means owned, operated, and maintained by a third party, provided that:

1. the permittee maintains ultimate control and responsibility over the sales transaction, the transfer of the physical possession of the alcoholic beverages, and the collection and remittance of all applicable state and local taxes;

2. the permittee retains the sole discretion to determine whether to accept and complete an order or reject it and the permittee or agents for which the retailer is required to file an Internal Revenue Service Form W-2 or 1099, shall review and accept or reject each order;

3. the permittee retains the independence to determine which alcoholic beverages are made available through electronic means and which alcoholic beverages are made available for delivery to the consumer at the licensed physical premises itself or at another address designated by the consumer;

4. the permittee independently sets the price of alcoholic beverages being offered for delivery;

5. any credit or debit card information provided by a consumer to the third party for the purpose of transacting a purchase is automatically directed to the permittee such that the transaction takes place between the consumer and the permittee and the permittee appears as the retail dealer at the time of purchase and a receipt;

6. the permittee, or a W-2 employee of the permittee, processes at the physical premises that accepted the order, all payments initiated by a consumer and assembles, packages, and fulfills each order at the same physical premises;

7. deliveries to consumers shall be made by the permittee or agents for which the retailer is required to file an Internal Revenue Service Form W-2 or 1099.

8. the relationship between the permittee and the third party shall be one of independent contractors and neither party shall be deemed the employee, or joint venture of the other party under any circumstances or for any purposes;

9. the third party shall not deal, handle, sell, offer or sale, or possess for sale alcoholic beverages or process payments for the sale of alcoholic beverages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:307(E).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§807. Third Party Alcohol Delivery Service Permit

A. Third party alcohol delivery service companies desiring to deliver alcohol to consumers in connection with a delivery agreement with a retail dealer possessing valid class AR or B retail permits shall first apply for and obtain a class T third party alcohol delivery permit pursuant to this particular regulation (§807) and they shall adhere to the following requirements in addition to the general requirements otherwise enumerated in this chapter:

B. The Commissioner of Alcohol and Tobacco shall collect an initial and annual fee for third party alcohol delivery service permits in the amount of \$1,500 and same

shall expire and be renewable annually from date of first issuance.

C. Third party company or platform may enter into an alcoholic beverage service delivery agreements with retail dealers possessing valid class AR or B retail permits with the Office of Alcohol and Tobacco Control that provide for the use by the retailer of an internet or mobile application or similar technology platform to facilitate the sale of alcoholic beverages for delivery to consumers for personal consumption and the third party alcohol delivery service permittee may deliver the alcoholic beverages so facilitated to the consumer.

D. Only malt beverages, sparkling wine, and still wine, as defined in R.S. 26:2 and 241 may be offered for delivery by third party delivery companies from the licensed premises of a restaurant Class AR permit holder. Alcoholic beverages as defined by R.S. 26:2(1) and 26:241(1)(a) may be offered for delivery by a third party delivery permittee from the licensed premises of package house-class B permit holder. No alcoholic beverages shall be offered for curbside pickup unless otherwise authorized under the law or a separate rule or guidance. All delivery orders containing alcoholic beverage shall also contain food.

E. No alcohol shall be delivered more than 10 miles from the place of purchased for any parish having a population greater than 100,000 according to the latest federal decennial census. Additionally, no alcohol shall be delivered more than 25 miles from the place of purchase for any parish having a population of less than 100,000 according to the latest federal decennial census.

F. No alcohol shall be purchased or sold by the third party delivery service. The third party delivery service is prohibited from charging a markup price for alcohol sales, however third party delivery service may charge a reasonable delivery fee. All transactions must be completed by the retail dealer.

G. Third party company or platform shall be licensed to do business in the State of Louisiana, use their own employees or agents for which the third party delivery company or the third party platform is required to file an Internal Revenue Service Form W-2 or 1099 for delivery, be able to monitor the routes of their employees during deliveries, and conduct screenings and background checks of all employees that will deliver alcoholic beverages.

H. Third party company or platform shall maintain a general liability insurance policy with a liquor liability endorsement in an amount no less than \$1,000,000 per occurrence for the duration of every agreement maintained with a retail dealer and they shall provide proof of coverage to every retail dealer with whom they have an agreement and notice to the retail dealer and the Commissioner of the Office of Alcohol and Tobacco Control if the coverage lapses or is cancelled.

I. The retail dealer shall manage and control the sale of alcoholic beverages and shall accept or reject all orders placed for alcoholic beverages through the third party delivery service permittee's internet or mobile application or similar technology, collect and remit all applicable state and local taxes, determine the alcoholic beverages offered for sale through the third party delivery service permittee's internet or mobile application or similar technology, and determine the price at which alcoholic beverages are offered

for sale or sold through the third party delivery service permittee's internet or mobile application or similar technology.

1. Any credit or debit card information provided by a consumer to the third party permittee for the purpose of transacting a purchase with a retail permittee shall automatically be directed to the retail permittee to ensure that the retail permittee is:

- a. the retail dealer at the time of purchase;
- b. is shown on the receipt; and
- c. receives the payment from the consumer.

2. The retail dealer may pay a third party delivery company or third party platform a fee for its service.

J. The third party alcohol delivery service permittee may not markup the price of alcoholic beverages and may not sell or resell alcoholic beverages. The third party delivery company or platform may charge retailer dealers a reasonable delivery fee for the orders delivered by the third party and may act as an agent for the retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment from the consumer.

1. At the time of delivery, alcoholic beverages shall be priced at the same or equal price as if offered for sale by the retailer directly from its licensed location.

2. Alcoholic beverages' prices advertised higher than those offered directly by retailers and/or receipts of alcohol beverages for sale listing prices higher than that offered directly by retailers through third party companies or platforms shall be deemed an impermissible mark-up.

K. The third party alcohol delivery service permittee may receive orders and accept payment via the internet or through a mobile application or similar technology.

L. At the time of delivery of alcoholic beverages, the third party alcohol delivery service permittee shall obtain the recipient's signature and verify the age of the recipient through the use of an electronic age verification device or combination of devices that shall be approved by the Commissioner of Alcohol and Tobacco Control. Such devices shall be capable of all of the following:

1. Verifying proof of age through technology of a magnetic card reader or an alternative technology capable of verifying proof of age;

2. Reading a valid state-issued driver's license, a valid state-issued identification card, a valid military identification card, or a valid passport;

3. Storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned;

M. A third party alcohol delivery service permittee who delivers alcoholic beverages, but fails to comply with the provisions of section I immediately above §801(L) and any other applicable rules contained in this chapter, shall be vicariously liable for damages incurred as a result of the failure to comply.

N. Third party alcohol delivery service permittees must maintain and provide the Commissioner of Alcohol and Tobacco Control with a list of retailers they have entered into agreements with within 60 days of receiving their permit and at each renewal. An up-to-date version of the

retailer list shall be made available upon demand by the Commissioner and her agents and assigns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:307(E).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has a negligible impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to R. Danielle Barringer, Office of Alcohol and Tobacco Control, 7979 Independence Blvd., Suite 101, Baton Rouge, LA 70806, no later than Friday, October 23, 2020. She is responsible for responding to inquiries regarding this proposed Rule.

Ernest P. Legier, Jr.
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Direct Delivery of Alcohol Public Safety Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules may result in additional marginal expenditures in FY 21 and subsequent FYs by an indeterminable amount associated with the regulation of alcohol delivery, such as permit review and recordkeeping, for the LA Dept. of Revenue, Office of Alcohol and Tobacco Control (ATC) that will be offset in part or in whole by revenues derived from regulation activities (see Part II below). The proposed rules outline the types of permits for alcohol delivery, as well as the requirements of permittees delivering alcohol.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase SGR collections in FY 21 and subsequent FYs by an indeterminable amount. Included in the proposed rules are fees for Package Store Retail Alcohol Delivery Permits (\$250 annually), Restaurant Retail Alcohol Delivery Permits (\$250 annually), and Third-Party Alcohol Delivery Service Permits (\$1,500 annually). Because permitting of such firms is a new activity, this represents new revenue for ATC. Because it is unknown how many firms will engage in alcohol delivery, as well as the types of permits they will obtain, the revenue increase is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will require firms to pay permit fees that are indeterminable in the aggregate, as it is unknown how many firms engage in alcohol delivery and which permits they will acquire. Any fees paid by firms will be equivalent to those outlined in Part II above. Furthermore, the proposed rules outline requirements for firms delivering alcohol, such as recordkeeping, age verification, maintenance of insurance, and limitations on the types of alcohol eligible for delivery. To the extent firms do not already comply with the rules being promulgated, they may incur expenses associated with achieving compliance. The extent of the expenditures firms may incur with achieving compliance is indeterminable and dependent upon the number of firms who are non-compliant, as well as the respective cost of remediating their non-compliance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Danielle Barringer
Attorney
2012#019

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Accredited Land Surveying Curriculum, Military Members/Spouses/Dependents and Continuing Professional Development (LAC 46:LXI.105, 903, 905, 909, 911, 1101, 3105, 3109, 3113, 3115, 3119 and 3121)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.105, 903, 905, 909, 911, 1101, 3105, 3109, 3113, 3115, 3119 and 3121.

This is a technical revision of existing rules under which LAPELS operates. The revision (a) updates the definition of accredited land surveying curriculum, (b) incorporates the recent changes made to the state statute dealing with the licensure of military members, spouses and dependents and (c) removes certain expired provisions relating to continuing professional development.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors
Chapter 1. General Provisions
§105. Definitions**

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

Accredited Land Surveying Curriculum—a curriculum approved by ANSAC/ABET, EAC/ABET or ETAC/ABET as a land surveying or geomatics academic program that satisfies the academic requirements for the practice of land surveying at the professional level.

ETAC/ABET—the Engineering Technology Accreditation Commission of ABET.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:1908 (September 2009), LR 38:835 (March 2012), repromulgated LR 38:1030 (April 2012), amended LR 44:612 (March 2018), LR 45:75 (January 2019), LR 47:

Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering or Land Surveying

§903. Professional Engineer Licensure

A. - A.2. ...

B. The requirements for licensure as a professional engineer under the alternatives provided in R.S. 37:3651(A) are as follows:

1. the applicant for licensure as a professional engineer shall be a member of the military, or a United States Department of Defense civilian employee assigned to duty in this state, who holds a current and valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has held such license for at least one year, who has passed any examinations and met any education, training, or experience standards as required by such other jurisdiction, who is held in good standing by such other jurisdiction, who has received education and experience as a member of the

military at a level that is comparable to the requirements for licensure under R.S. 37:693(B)(2)(a) and Paragraph 1 of Subsection A herein, who does not have a disqualifying criminal record as determined by the board under the laws of this state, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be a spouse or dependent of a member of the military or a United States Department of Defense civilian employee, if the member or civilian employee has received military orders for a change of station to a military installation or assignment located in this state or has established this state as their state of legal residence as reflected in their military record, who holds a current and valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has held such license for at least one year, who has passed any examinations and met any education, training, or experience standards as required by such other jurisdiction, who is held in good standing by such other jurisdiction, who does not have a disqualifying criminal record as determined by the board under the laws of this state, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

C. The requirements for licensure as a professional engineer under the alternatives provided in R.S. 37:3651(B) are as follows:

1. the applicant for licensure as a professional engineer shall be a member of the military who has lawfully engaged in the practice of engineering for at least three years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate

the practice of engineering, who has received education and experience as a member of the military at a level that is comparable to the requirements for licensure under R.S. 37:693(B)(2)(a) and Paragraph 1 of Subsection A herein, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be a spouse or dependent of a member of the military or United States Department of Defense civilian employee assigned duty in this state, who has lawfully engaged in the practice of engineering for at least three years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of engineering, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

D. The requirements for licensure as a professional engineer under the alternatives provided in R.S. 37:3651(C) are as follows:

1. the applicant for licensure as a professional engineer shall be a member of the military, or a United States Department of Defense civilian employee assigned duty in this state, who has lawfully engaged in the practice of engineering for at least two years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of engineering, who holds a current and valid private certification to engage in the practice of engineering, who is held in good standing by the organization that issued such private certification, who has received education and experience as a member of the military at a level that is comparable to the requirements for licensure under R.S. 37:693(B)(2)(a) and Paragraph 1 of Subsection A herein,

who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be a spouse or dependent of a member of the military or United States Department of Defense civilian employee, who has lawfully engaged in the practice of engineering for at least two years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of engineering, who holds a current and valid private certification to engage in the practice of engineering, who is held in good standing by the organization that issued such private certification, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

E. The provisions of Subsections B, C and D shall not apply to any applicant who received a dishonorable discharge or to a military spouse whose spouse received a dishonorable discharge.

F. In Subsections B, C and D, the term *military* shall mean the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

G. In Subsections B, C and D, the term *dependent* shall mean a resident spouse or resident unmarried child under 21 years of age, a child who is a student under 24 years of age and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

H. The authority for the executive director to issue a license can only be granted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR 38:2564 (October 2012), LR 39:1060 (April 2013), LR 39:2801 (October 2013), LR 43:538 (March 2017), LR 43:1419 (July 2017), LR 44:616 (March 2018), LR 47:

§905. Temporary Permit to Practice Engineering

A. ...

B. An individual who has applied to the board for licensure pursuant to §903.B, §903.C, or §903.D shall be granted a temporary permit to practice or offer to practice engineering in Louisiana for the period from the time the individual has applied to the board for licensure until either the license has been granted or notice of denial of licensure has been issued, provided that before beginning such temporary practice in Louisiana, the individual shall have applied to the board for a temporary permit, paid the prescribed fee, and received a temporary permit.

C. The provisions of Subsection B shall not apply to any applicant who received a dishonorable discharge or to a military spouse whose spouse received a dishonorable discharge.

D. In Subsection C, the term *military* shall mean the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 16:773 (September 1990), LR 19:56 (January 1993), LR 22:286 (April 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 37:2412 (August 2011), LR 39:2802 (October 2013), LR 44:616 (March 2018), LR 47:

§909. Professional Land Surveyor Licensure

A. - A.2. ...

B. The requirements for licensure as a professional land surveyor under the alternatives provided in R.S. 37:3651(A) are as follows:

1. the applicant for licensure as a professional land surveyor shall be a member of the military, or a United States Department of Defense civilian employee assigned to duty in this state, who holds a current and valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has held such license for at least one year, who has passed any examinations and met any education, training, or experience standards as required by such other jurisdiction, who is held in good standing by such other jurisdiction, who has

received education and experience as a member of the military at a level that is comparable to the requirements for licensure under R.S. 37:693(B)(4)(a) and Paragraph 1 of Subsection A herein, who does not have a disqualifying criminal record as determined by the board under the laws of this state, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be a spouse or dependent of a member of the military or a United States Department of Defense civilian employee, if the member or civilian employee has received military orders for a change of station to a military installation or assignment located in this state or has established this state as their state of legal residence as reflected in their military record, who holds a current and valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has held such license for at least one year, who has passed any examinations and met any education, training, or experience standards as required by such other jurisdiction, who is held in good standing by such other jurisdiction, who does not have a disqualifying criminal record as determined by the board under the laws of this state, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board.

C. The requirements for licensure as a professional land surveyor under the alternatives provided in R.S. 37:3651(B) are as follows:

1. the applicant for licensure as a professional land surveyor shall be a member of the military who has lawfully engaged in the practice of land surveying for at least three years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of land surveying, who has received education and experience as a member of the military at a level that is comparable to the requirements for licensure under R.S. 37:693(B)(4)(a) and Paragraph 1 of Subsection A herein, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be a spouse or dependent of a member of the military or United States Department of Defense civilian employee assigned duty in this state, who has lawfully engaged in the practice of land surveying for at least three years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of land surveying, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board.

D. The requirements for licensure as a professional land surveyor under the alternatives provided in R.S. 37:3651(C) are as follows:

1. the applicant for licensure as a professional land surveyor shall be a member of the military, or a United States Department of Defense civilian employee assigned

duty in this state, who has lawfully engaged in the practice of land surveying for at least two years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of land surveying, who holds a current and valid private certification to engage in the practice of land surveying, who is held in good standing by the organization that issued such private certification, who has received education and experience as a member of the military at a level that is comparable to the requirements for licensure under R.S. 37:693(B)(4)(a) and Paragraph 1 of Subsection A herein, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be a spouse or dependent of a member of the military or United States Department of Defense civilian employee, who has lawfully engaged in the practice of land surveying for at least two years in a state, territory, or possession of the United States, or the District of Columbia, that does not use a professional or occupational license or government certification to regulate the practice of land surveying, who holds a current and valid private certification to engage in the practice of land surveying, who is held in good standing by the organization that issued such private certification, who has not had a professional or occupational license revoked by another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the profession or occupation, who has not surrendered a professional or occupational license because of negligence or intentional misconduct related to their work in the profession or occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board.

E. The provisions of Subsections B, C and D shall not apply to any applicant who received a dishonorable

discharge or to a military spouse whose spouse received a dishonorable discharge.

F. In Subsections B, C and D, the term *military* shall mean the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

G. In Subsections B, C and D, the term *dependent* shall mean a resident spouse or resident unmarried child under 21 years of age, a child who is a student under 24 years of age and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

H. The authority for the executive director to issue a license can only be granted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:1909 (September 2009), LR 37:2413 (August 2011), LR 38:2564 (October 2012), LR 39:2802 (October 2013), LR 43:539 (March 2017), LR 44:617 (March 2018), LR 47:

§911. Temporary Permit to Practice Land Surveying

A. An individual who has applied to the board for licensure pursuant to §909.B, §909.C, or §909.D shall be granted a temporary permit to practice or offer to practice land surveying in Louisiana for the period from the time the individual has applied to the board for licensure until either the license has been granted or notice of denial of licensure has been issued, provided that before beginning such temporary practice in Louisiana, the individual shall have applied to the board for a temporary permit, paid the prescribed fee, passed the examination required by the board in the Louisiana laws of land surveying, and received a temporary permit.

B. The provisions of Subsection A shall not apply to any applicant who received a dishonorable discharge or to a military spouse whose spouse received a dishonorable discharge.

C. In Subsection B, the term *military* shall mean the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 39:2803 (October 2013), amended LR 44:618 (March 2018).

Chapter 11. Curricula

§1101. Approved Curricula

A. - E. ...

F. Based on an investigation by a committee of the board, the board may, by a majority vote at a regular meeting, recognize as an approved curriculum a non-accredited land surveying curriculum of four years or more from a school of satisfactory standing that does not meet the specifications of §1101.E. The board shall keep a record of the land surveying curricula thus approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 10:805 (October 1984), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 44:618 (March 2018), LR 45:77 (January 2019), LR 47:

Chapter 31. Continuing Professional Development (CPD)

§3105. Requirements

A. Every professional engineer, including those listed in two or more disciplines, is required to earn 15 PDHs per calendar year in engineering-related acceptable activities. Professional engineers may not earn more than 8 PDHs within a single calendar day.

1. At least one of the PDHs per calendar year shall be earned in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. At least four of the PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems in Louisiana during such calendar year.

B. Every professional land surveyor is required to earn 8 PDHs per calendar year in land surveying-related acceptable activities.

1. At least one of the PDHs per calendar year shall be earned in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. At least one of the PDHs per calendar year shall be earned in the standards of practice for boundary surveys in Louisiana.

C. Each dual licensee is required to earn 15 PDHs per calendar year; however, at least one-third of the PDHs for each calendar year shall be earned separately for each profession.

1. At least one of the PDHs per calendar year shall be earned in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. At least one of the PDHs per calendar year shall be earned in the standards of practice for boundary surveys in Louisiana.

3. At least four of the PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems in Louisiana during such calendar year.

D. Excess PDHs

1. If a licensee exceeds his/her annual requirement of PDHs, up to a maximum of 7 PDHs may be carried forward into the subsequent calendar year.

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:1104 (July 2016), LR 44:629 (March 2018), LR 47:

§3109. Exemptions

A. A licensee may be exempt from the CPD requirements in this Chapter for any one or more of the following reasons.

1. New licensees shall be exempt from the CPD requirements during the calendar year in which they are licensed.

2. Licensees serving on active duty in the United States military for a period of time exceeding 180 consecutive days in a calendar year shall be exempt from the CPD requirements during that calendar year.

3. Licensees experiencing disability, serious illness, or serious injury of a nature and duration which prevent them from satisfying the CPD requirements during a calendar year may be granted an exemption from such requirements for said year. Supporting documentation, such as a signed letter from a physician who has treated the disability, illness or injury, is required. This documentation shall be on the letterhead of the physician, shall set forth the nature of the disability, illness or injury and the period of time under treatment by the physician, and shall contain a statement by the physician as to any limitations placed upon the licensee which impaired his/her ability to satisfy the CPD requirements. This exemption may only be granted for one calendar year at a time.

4. Licensees working outside of the United States for more than 90 days in a calendar year where compliance with the CPD requirements is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from such requirements for said calendar year. Supporting documentation, such as a signed letter from the licensee's employer, is required. This documentation shall be on the letterhead of the employer, shall set forth both the location and the period of time in which the licensee has been working outside of the United States, and shall contain a statement by the employer as to why it was impractical for the licensee to satisfy the CPD requirements.

A.5. - A.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 42:1105 (July 2016), LR 44:630 (March 2018), LR 47:

§3113. Units

A. - A.3. ...

B. PDH credit will be awarded as follows:

1. fifty contact minutes of verified attendance at an activity in accordance with §3111.A.1-2, or problem preparation for a NCEES or state professional engineering or land surveying exam in accordance with §3111.A.7 = one PDH. A maximum of five PDHs will be allowed per calendar year for problem preparation;

2. membership in an engineering or land surveying professional association or technical society in accordance with §3111.A.4 = one PDH per calendar year for each association or society. A maximum of two PDHs will be allowed per calendar year for all such memberships;

3. teaching/instructing or presenting an activity in accordance with §3111.A.1-3 = twice the PDHs allowed for attending the activity. A maximum of 15 PDHs will be allowed per calendar year for teaching, instructing and presenting;

4. authoring and publishing a peer reviewed (refereed) article/paper in an engineering or land surveying journal, or authoring and publishing a peer reviewed (refereed) book related to engineering or land surveying, in accordance with §3111.A.5 = 5 PDHs per calendar year for all such articles/papers or books;

5. authoring and publishing a non-peer reviewed (non-refereed) article/paper in an engineering or land surveying journal in accordance with §3111.A.5 = 3 PDHs per calendar year for all such articles/papers;

6. obtaining a patent in accordance with §3111.A.6 = 10 PDHs for each patent;

7. serving as a thesis director for a student pursuing a masters or doctoral degree in engineering in accordance with §3111.A.8 = 1 PDH per hour of thesis credit. A maximum of 5 PDHs will be allowed per calendar year for all such students;

8. serving on a technical committee that is assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying in accordance with §3111.A.9 = 1 PDH per 50 contact minutes of attendance at a committee meeting. A maximum of 5 PDHs will be allowed per calendar year for service on all of such committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1732 (August 2004), LR 37:2421 (August 2011), LR 39:1481 (June 2013), LR 42:1106 (July 2016), LR 44:631 (March 2018), LR 47:

§3115. Record Keeping

A. ...

B. All licensees are required to maintain a board-approved professional development activity log outlining all PDHs claimed during a calendar year. Licensees must complete all sections of the log and be prepared to submit the completed log and any corresponding documentation to the board upon request. Blank log forms can be obtained from the board's website.

C. Maintaining records to be used to support PDHs claimed is the responsibility of the licensee. These records must be maintained for at least six consecutive calendar years and copies may be requested by the board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:632 (March 2018), LR 47:

§3119. Failure to Comply

A. ...

B. PDHs earned and used to satisfy a not-in-compliance situation may not also be used to satisfy the CPD requirements for the current calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:632 (March 2018), LR 47:

§3121. CPD Reinstatement

A. To become reinstated to an active status, a licensee in an expired, inactive, or retired status must have earned all PDHs which he/she would have been required to earn if he/she had been in an active status during the previous two calendar years as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:633 (March 2018), LR 47:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Small Business Analysis

In accordance with R.S. 49:953(A)(1)(a)(x) and 978.5, the following Small Business Regulatory Flexibility Analysis is submitted with the Notice of Intent for publication in the *Louisiana Register*: The impact of the proposed Rule on small businesses has been considered. LAPELS has, consistent with health, safety, environmental and economic welfare, considered utilizing regulatory methods that will accomplish the objectives of applicable statutes while

minimizing adverse impact on small businesses. The proposed Rule is not anticipated to have an adverse impact on small businesses.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through January 10, 2021 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Accredited Land Surveying Curriculum, Military Members/Spouses/Dependents and Continuing Professional Development

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change revises existing rules under which LAPELS operates to (a) update the definition of accredited land surveying curriculum, (b) incorporate the 2020 changes to La. R.S. 37:3651, which relate to alternatives for licensure of military members, spouses and dependents, and (c) remove certain expired provisions relating to continuing professional development.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may expedite employment opportunities, ability to compete, income, prestige, credentials, marketability, etc. for those individuals who may now be able to become licensed as professional engineers or professional land surveyors based on possession of a current and valid occupational license in another state. The scope of any such benefit is indeterminable, as the number of qualifying individuals is speculative and unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may expedite employment opportunities for those individuals who may now be able to become licensed as professional engineers or professional land surveyors. The scope of any such benefit is indeterminable, as the number of qualifying individuals is speculative and unknown.

Donna D. Sentell
Executive Director
2012#042

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Mandatory Submission of Monthly Salaries and
Contributions Reports, Contributions Corrections,
Prior Years Certifications/Corrections of Member Data and
(RET) Annual Salary Files
(LAC 58:III.101)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 that the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) proposes to amend LAC 58:III.101, relative to contributions reported to TRSL by participating employers, in order to remove obsolete language, to clarify the reporting method to be used based on employer size and type of information reported, and to provide for submission of records for audit purposes. A preamble to this proposed action has not been prepared.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 1. General Provisions

§101. Mandatory Submission of Monthly Salaries and Contributions Reports, Contributions Corrections, Prior Years Certification/Corrections of Member Data and (RET) Annual Salary Files

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Teachers' Retirement System of Louisiana (TRSL) Board of Trustees, by means of file transfer protocol or by secure on-line web based reporting, the amounts of each employee's actual salary, full-time salary, and the amounts of contribution deductions from the employee's actual salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol and web-based reporting formats must be in compliance with criteria established by TRSL and transferred in the manner as required by TRSL. All certified monthly salaries and contributions reports must be submitted by the fifteenth day of the month following the month covered by the report.

1. All employers reporting 100 or fewer employees must submit monthly salaries and contributions reports by file transfer protocol, by direct file upload submission via the internet or manually through TRSL's secure on-line web-based inquiry system.

2. All other employers must submit monthly salaries and contributions reports by file transfer protocol or by direct file upload submission via the internet through TRSL's secure on-line web-based inquiry system.

B. On-line Contributions Corrections of Current/Open Year Reported Member Data

1. All employers must submit On-line Contributions Corrections for the current/open fiscal year for any member data updates/corrections to the reported information on the Monthly Salaries and Contributions Reports or previous

contribution corrections using TRSL's secure on-line web-based inquiry system. This includes any unreported data not included in the Monthly Salaries and Contributions Reports.

C. On-line Prior Years Certifications/Corrections of Previous/Closed Years Reported Member Data.

1. Member data previously submitted, or unsubmitted, for any closed fiscal year by employers through the Monthly Salaries and Contributions Reports or by On-line Contributions Corrections determined to be inaccurate, questionable or in need of correction by TRSL must be corrected or certified as correct by the employer.

2. All employers must submit Prior Year Certifications/Corrections (with certain exceptions as provided for in C. 3) using TRSL's secure on-line web-based inquiry system. Data that is to be certified/corrected via the secure on-line web based inquiry system are as follows:

- a. full-time rate of pay only corrections;
- b. actual earnings and contribution corrections;
- c. service credit;
- d. identified "questionable year" data.

3. Employers who do not have on-line access or employers who have data that meets TRSL's definition of "Unusual", must certify/correct the data by submitting a written statement to TRSL signed by an authorized representative of the employer. For purposes of this Paragraph, "Unusual" shall mean restored service credit not listed on a member's account history, interest balances pre-dating June 30, 1971, dual employment prior to fiscal year 1983, refunded service credit not listed on a member's account history, and instances of substitute, summer school, or other earnings that fall outside of a typical contract.

D. Electronic Reporting of (RET) Annual Salary Files. Employers shall submit to TRSL each year by August 15th the (RET) annual salary file, which shall include all payees paid by the employer, including payroll, accounts payable, and 1099 payments. This file shall be in the format and transferred as required by TRSL.

E. Auditing of Records. Employers shall submit all records requested by TRSL for audit purposes to verify any data previously submitted to TRSL under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:1151 (June 2007), effective July 1, 2007, amended LR 34:1048 (June 2008), effective July 1, 2008, amended LR 47:

Family Impact Statement

The proposed amendment of LAC 58:III.101, relative to contributions reported to the Teachers' Retirement System of Louisiana (TRSL) by participating employers should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;

4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed adoption of LAC 58:III. 101, relative to contributions reported to the Teachers' Retirement System of Louisiana (TRSL) by participating employers should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. The Teachers' Retirement System of Louisiana is a governmental 401(a) retirement plan having no regulatory oversight over small businesses and having limited interaction or association with small businesses. The proposed Rule relate to TRSL's internal administration of its retirement plan and the members of such plan who are current or former public employees. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The Teachers' Retirement System of Louisiana is a The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that these proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 11, 2021, to Matt Tessier, Deputy General Counsel, Board of Trustees for the Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Katherine Whitney
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Mandatory Submission of Monthly
Salaries and Contributions Reports, Contributions
Corrections, Prior Years Certifications/Corrections of
Member Data and (RET) Annual Salary Files**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no expected implementation costs or savings to state or local governmental units as a result of this proposed rule change.

The proposed rule makes change to Chapter 1 of Title 58, Part I of the Louisiana Administrative Code applicable to Teachers' Retirement System of Louisiana (TRSL). Current rule provides that monthly salary and contributions reporting may be submitted by employers through file transfer protocol, diskette, or online. Proposed rule removes the option to report through diskette. The proposed rule also updates the process for employers to submit corrections to TRSL for previously reported salary and contributions amounts. Proposed rule adds that employers shall submit the annual salary file by August 15th of each year and that employers shall provide all records requested by TRSL for audit purposes to verify any data previously submitted to the system.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no measurable quantifiable impact of the proposed rules. However, to the extent that the rules are geared toward enhancing employer reporting of member salaries, it is possible that members will benefit from such enhancements, though to what extent cannot be quantified. Since TRSL is a governmental 401(a) retirement plan serving mostly public employees, there is no measurable impact on small businesses or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no anticipated effect on competition and employment.

Katherine Whitney
Director
2012#022

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Yo-Yo and Trotline Regulations
(LAC 76:VII.134)**

The Wildlife and Fisheries Commission does hereby give notice of intent to modify the yo-yo and trotline regulations to include Lake Bruin in Tensas Parish, Louisiana. The proposed rule change limits the number of yo-yo or trigger devices to 50 devices per fisher and requires that the devices (other than those attached to private land-based structures) must be checked and re-baited once every 24 hours. Also, the proposed rule limits the number of trotlines to three per person, limits the number of hooks per line to a maximum of

50 hooks each, and requires that the trotlines must be checked every 24 hours when in use.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

**§134. Black Lake, Clear Lake, Prairie Lake, Caddo
Lake, Chicot Lake, D'Arbonne Lake, Lake St.
Joseph, and Lake Bruin**

A. The following regulations are applicable to the use of yo-yo and trigger devices when used in Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), Lake St. Joseph (Tensas Parish), and Lake Bruin, including the portion known as Brushy Lake (Tensas Parish), Louisiana.

1. No more than 50 yo-yos or trigger devices shall be allowed per person.

2. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device shall be clearly tagged with the name, address, and telephone number of the owner or user.

3. When in use, each yo-yo or trigger device shall be checked at least once every 24 hours, and all fish and any other animal caught or hooked, shall be immediately removed from the device.

4. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device must be re-baited at least once every 24 hours.

5. Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no yo-yo or trigger device shall be attached to any metal object.

6. Except for an object used strictly in the construction of a pier, boathouse, seawall, or dock, no object which is driven into the lake bottom, a stump, tree, or the shoreline shall be used to anchor a yo-yo or trigger device.

Object—rebar or other metal material, cane, PVC tubing, construction material, or any other type of material.

7. Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, when not being used in accordance with the provisions of this Section, each yo-yo or trigger device shall be removed from the waterbody immediately.

B. The following regulations are applicable to the use of trotlines when used in Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), Lake St. Joseph (Tensas Parish), and Lake Bruin, including the portion known as Brushy Lake (Tensas Parish), Louisiana.

1. All trotlines shall be clearly tagged with the name, address, and phone number of the owner or user and the date of placement. The trotline shall be marked on each end with a floating object that is readily visible.

2. At any given time, no person shall set more than three trotlines with a maximum of 50 hooks each.

3. All trotlines shall have an eight-foot cotton leader on each end of the trotline.

4. Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or

other manmade structure which is designed for fishing, no trotline shall be attached to any metallic object.

5. Each trotline shall be attended daily when in service.

6. When not in use, each trotline shall be removed from the waterbody by the owner or user.

C. A violation of any of the provisions of this Section shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Paragraph shall be immediately seized by and forfeited to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.3 and 56:6(32).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:2567 (October 2012), amended LR 39:3101 (November 2013), LR 47:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act No. 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).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Ryan Daniel, Louisiana Department of Wildlife and Fisheries, 368 CenturyLink Drive, Monroe,

LA, 71203-8732, or via e-mail to rdaniel@wlf.la.gov prior to Thursday, February 4, 2021.

William Hogan
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Yo-Yo and Trotline Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures. The proposed rule expands regulations for the use of yo-yo and trigger devices to include Lake Bruin, Louisiana. The proposed rule change limits the number of yo-yo or trigger devices to 50 devices per fisher and requires that the devices (other than those attached to private land-based structures) must be checked and re-baited once every 24 hours. Also, the proposed rule limits the number of trotlines to three per person, limits the number of hooks per line to a maximum of fifty hooks each, and requires that the trotlines must be checked every 24 hours when in use.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The small number of recreational fishers who currently use trotlines with more than 50 hooks and those who fish with yo-yo and trigger devices attached to artificial objects in Lake Bruin may be negatively affected by the proposed rule change.

The proposed rule change is expected to have a positive effect on anglers, boaters, and other person who use Lake Bruin by increased aesthetic value and decreased potential for navigation hazards and incidental boat damage from contact with items placed in the lake to attach yo-yos and trigger devices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition and employment.

Bryan McClinton
Undersecretary
2012#021

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House Committee on Ways and Means

Oversight Hearing on Notice of Intent Proposed by
Office of Alcohol and Tobacco Control
CBD Product Public Safety Regulations
(LAC 55:VII.Chapter 6)

December 3, 2020

Pursuant to the provisions of R.S. 49:968, the House Committee on Ways and Means held a meeting on December 2, 2020, to consider the CBD Product Public Safety Regulations proposed by the Department of Revenue, Office of Alcohol and Tobacco Control on September 20, 2020.

The House Committee on Ways and Means determined Sections 6129, 6131, and 6141 of the CBD Product Public Safety Regulations proposed by the Department of Revenue, Office of Alcohol and Tobacco Control to be unacceptable and determined the remaining sections of the proposed rule to be acceptable.

Representative Stuart J. Bishop
Chairman

2012#013

COMMITTEE REPORT

House Committee on Ways and Means

Oversight Hearing on Notice of Intent Proposed by
Office of Alcohol and Tobacco Control
Direct Delivery of Alcohol Public Safety Regulations
(LAC 55:VII.Chapter 8)

December 3, 2020

Pursuant to the provisions of R.S. 49:968, the House Committee on Ways and Means held a meeting on December 2, 2020, to consider the Direct Delivery of Alcohol Public Safety Regulations proposed by the Department of Revenue, Office of Alcohol and Tobacco Control on September 20, 2020.

During the meeting, committee members discussed with the commissioner of the Office of Alcohol and Tobacco Control as well as with other members of the public issues related to the ability of a retailer to set the price of alcoholic beverages made available for delivery to a residential or commercial address or alcoholic beverages made available through an electronic platform. The committee also engaged in dialogue focused on the calculations retailers use to set product prices as well as the issue of price sharing.

The House Committee on Ways and Means determined §807.J.1 and 2 of the Direct Delivery of Alcohol Public Safety Regulations proposed by the Department of Revenue, Office of Alcohol and Tobacco Control to be unacceptable and determined the remaining sections of the proposed rule to be acceptable.

Representative Stuart J. Bishop
Chairman

2012#014

Governor's Reports

GOVERNOR'S REPORT

Governor's Disapproval of Action Taken by the House Ways and Means Committee on proposed Direct Delivery of Alcohol Public Safety Regulations by the Department of Revenue, Office of Alcohol and Tobacco Control

Dear Chairman Bishop:

On December 3, 2020, I received written notice that the House Committee on Ways and Means determined a portion of the Direct Delivery of Alcohol Public Safety Regulations proposed by the Department of Revenue, Office of Alcohol and Tobacco Control to be unacceptable. Sections 807.J.1 and 2, the provisions found to be unacceptable by the committee, are mandated by current law, and therefore, I disapprove of the action taken by the House Committee on Ways and Means.

John Bel Edwards
Governor

2012#045

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Weights and Measures Commission

Public Hearing—Substantive Changes to Proposed Rule
Weights and Measures (LAC 7:XXXV.127, 135, and 321)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:4671, 4672, 4673, 4680, and 4681, the Department of Agriculture and Forestry (“Department”) published a Notice of Intent to amend LAC 7:XXXV.127, 135, and 321 regarding registration of weighing and measuring devices, meat labeling, and classification and method of sale of petroleum products at LR 46:10, pages 1403-1405 (October 20, 2020). As a result of public comments received on the proposed amendments, notice is hereby given that the department is seeking to incorporate substantive changes to LAC XXXV.321. The proposed changes expand the types of fuel blends that require consistency with the automotive fuel rating when they are used in the grade name.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§127. Registration

A. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015), LR 42:1649 (October 2016); LR 47:

§135. Meat Labeling

A. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:1672 (October 2001); LR 47:

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, ethanol, biodiesel, biomass-based diesel, biomass-based diesel blend, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the

product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade shall not be permitted unless the automotive fuel rating or ASTM grade indicated in the grade name is consistent with 16 CFR 306.5 and 306.6 for transfers to anyone who is not a consumer consistent with CFR 306.10 for automotive fuel sold to consumers, and this Subchapter.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:31 (January 2005), amended LR 41:2099 (October 2015), LR 47:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on the proposed substantive changes will be held remotely on January 21, 2020 from 1 p.m. to 2 p.m. via videoconference and telephone conference. Interested persons may attend the public hearing by either connecting through meet.google.com/tjg-gshi-yvv or via telephone conference by calling 1 617-675-4444 and entering PIN: §442 789 572 0938#.

Public Comments

Interested persons may also submit written comments, data, opinions and arguments regarding the proposed substantive changes. Written submissions must be directed Bobby Fletcher, Ph.D., Director of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 2:00p.m. on the 21st day of January, 2020.

Mike Strain, DVM
Commissioner

2012#039

POTPOURRI

Office of the Governor Office of Financial Institutions

Judicial Interest Rate for 2021

Pursuant to authority granted by R.S. 13:4202(B)(1), as amended, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2021 will be three and one half (3.50%) percent per annum.

John Ducrest
Commissioner

2012#001

POTPOURRI

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

2021 Second Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Volume 11).

House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 2 for the quarter October 1, 2020 through December 31, 2020. The quarterly assessment amount to all hospitals will be \$28,392,062 which amounts to 0.25 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Dr. Courtney N. Phillips
Secretary

2012#050

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Black Diamond Production Co.	Monroe	M	Lankford	005	147526
Black Diamond Production Co.	Monroe	M	Matthews N	001	147735
Black Diamond Production Co.	Monroe	M	Roberts	001	151167
Black Diamond Production Co.	Monroe	M	Roberts	002	151168
Black Diamond Production Co.	Monroe	M	Franklin	001	152446
Black Diamond Production Co.	Monroe	M	LGP-N	004	152470
Black Diamond Production Co.	Monroe	M	Johnson	001	152471

Operator	Field	District	Well Name	Well Number	Serial Number
Black Diamond Production Co.	Monroe	M	LGP-N	001	152513
Black Diamond Production Co.	Monroe	M	LGP-N	002	152514
Black Diamond Production Co.	Monroe	M	LGP-N	003	152515
Black Diamond Production Co.	Monroe	M	LGP-N	005	153131
Black Diamond Production Co.	Monroe	M	Bonner	001	153542
Britlind Oil LLC	Bayou Mallet	L	A Seidel	001	39832
Britlind Oil LLC	Bayou Mallet	L	vuh; Lillie M Miller	001	141572
Britlind Oil LLC	Scott Bayou	M	vua; B Forman	001	173322
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Britlind Oil LLC	Opelousas	L	Wilson Courville	001	181720
Britlind Oil LLC	Bayou Mallet	L	Vuc; Dave Miller	001	189942
Britlind Oil LLC	Shuteston	L	Miller et al swd	001	192836
Britlind Oil LLC	Shuteston	L	Ln-1 Rd sue; Sibille	001	198589
Britlind Oil LLC	Little Comite Creek	L	Frio Ra sua;Haynes	001	213589
Britlind Oil LLC	Bayou Mallet	L	H G Vautrot Jr swd	001	213953
Britlind Oil LLC	Bayou Mallet	L	H G Vautrot Jr	004	215275
Britlind Oil LLC	Shuteston	L	Brinkhaus	001	217427
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Britlind Oil LLC	College Point-St James	L	Marg 3 Rb sua; E Laurent	001	236975
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Leggett Petroleum, LLC	Port Barre	L	Luther Harmon Heirs	006-D	89452
Leggett Petroleum, LLC	Crowley, North	L	4400 RB sua; L Harmon Heirs	007	215196
Leggett Petroleum, LLC	Port Barre	L	LPA LLC	001	229435
Leggett Petroleum, LLC	Port Barre	L	LPA LLC	004	232232
Leggett Petroleum, LLC	Crowley, North	L	LPA LLC	005	234356
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Mesa Gulf Coast LLC	Lake Hermitage	L	vub;Lldsb	012	24462
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Operator	Field	District	Well Name	Well Number	Serial Number
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Mesa Gulf Coast LLC	Valentine	L	Valentine	028	65318
Mesa Gulf Coast LLC	Lake Hermitage	L	Vub;Lldsb	014D	65647
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Mesa Gulf Coast LLC	Larose	L	MR Fee 852 swd	008	101024
Mesa Gulf Coast LLC	Valentine	L	Valentine	038	105883
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Mesa Gulf Coast LLC	Valentine	L	Acosta Rb sua; Mack Acosta	005-ALT	177394
Mesa Gulf Coast LLC	Lake Hermitage	L	vub; Lldsb	026	177571
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Mesa Gulf Coast LLC	Bay Batiste	L	28 ra sua; SI 9570	001	179600
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Operator	Field	District	Well Name	Well Number	Serial Number
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Richard P. Ieyoub
Commissioner

2012#017

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