

**I. EXECUTIVE ORDER**  
 BJ 10-05 Merit Increase Freeze ..... 714  
 BJ 10-06 Executive Branch—Expenditure Freeze..... 714

**II. EMERGENCY RULES**  
**Civil Service**  
 Civil Service Commission  
     Temporary Suspension of Merit Increase Authority, Civil Service Rules, 6.14.1 ..... 716

**Education**  
 Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant  
     Programs (LAC 28:IV.1009, 1011, 1013, 1015, and 1017) ..... 716  
     START Savings Program (LAC 28:VI.315) ..... 717

**Health and Hospitals**  
 Bureau of Health Services Financing—Disproportionate Share Hospital Payments—Mental Health  
     Emergency Room Extensions (LAC 50:V.2711) ..... 717  
     Federally Qualified Health Centers—Service Limit Reduction (LAC 50:XI.10503 and 10701) ..... 718  
     Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate  
         Reduction (LAC 50:XXI.14301) ..... 719  
     Home and Community-Based Services Waivers —Residential Options Waiver  
         (LAC 50:XI.Chapters 161-169) ..... 720  
     Home Health Program—Durable Medical Equipment—Reimbursement Reduction  
         (LAC 50:XIII.10301)..... 734  
     Home Health Program—Durable Medical Equipment—Repeal of Provider Accreditation  
         Requirements (LAC 50:XIII.8501) ..... 735  
     Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Methodology  
         (LAC 50:V.953)..... 736  
     Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate  
         Increase (LAC 50:VII.32903)..... 737  
     Nursing Facilities—Admissions (LAC 50:II.501-511, 10146, and 10157)..... 737  
     Outpatient Hospital Services— Non-Rural, Non-State Hospitals —Low Income and Needy Care  
         Collaboration (LAC 50:V.5313, 5513, 5713, 5913, and 6115) ..... 740  
     Pharmacy Benefits Management Program—Restoration of the Dispensing Fee (LAC 50:XXIX.Chapter 9) .... 743  
     Rural Health Clinics—Repeal of Reimbursement Rate Reduction (LAC 50:XI.16701) ..... 747  
     Office for Citizens with Developmental Disabilities—Home and Community-Based Services  
         Waivers—New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301) ..... 719  
     Office of Aging and Adult Services—Nursing Facilities—Admissions (LAC 50:II.501-511, 10146, and 10157) ..... 737

**Social Services**  
 Office of Family Support—Child Care Assistance—Job Search (LAC 67:III.5103, 5104, and 5109) ..... 747

**Wildlife and Fisheries**  
 Wildlife and Fisheries Commission—Large Coastal Shark Closure—Commercial Fishery ..... 748

**III. RULES**  
**Economic Development**  
 Office of Business Development—CDC Certification Program (LAC 13:I.Chapter 37)..... 750

**Education**  
 Board of Elementary and Secondary Education—Bulletin 746—Louisiana Standards for State Certification  
     of School Personnel—Standard Certificates for Teachers in Nonpublic/Charter Schools  
     (LAC 28:CXXXI.315) ..... 751  
 Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation  
     Programs—Programmatic Intervention and Acronyms (LAC 28:XLV.501 and 601) ..... 753

This public document was published at a total cost of \$2,725. Five hundred copies of this public document were published in this monthly printing at a cost of \$2,725. The total cost of all printings of this document including reprints is \$2,725. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 49:981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audiocassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

<b>Governor</b>	
Boxing and Wrestling Commission—Boxing and Wrestling Standards (LAC 46:XI.Chapters 1, 3, and 7).....	756
<b>Health and Hospitals</b>	
Board of Pharmacy—Digital Imaging of Prescriptions (LAC 46:LIII.1123).....	755
Pharmacy Interns (LAC 46:LIII.709) .....	755
Prescription Monitoring Program (LAC 46:LIII.2901) .....	755
Prescription Transfers (LAC 46:LIII.2523).....	756
<b>Health and Hospitals</b>	
Bureau of Health Services Financing—Early and Periodic Screening, Diagnosis and Treatment Program; KIDMED Services; Claims Filing (LAC 50:XV.6705) .....	759
Office of Aging and Adult Services, Division of Adult Protective Services—Adult Protective Services (LAC 48:XIII.17101-17125) .....	759
<b>Public Safety and Corrections</b>	
Board of Private Investigator Examiners—Licensing of Journeyman (LAC 46:LVII.510).....	764
<b>Revenue</b>	
Policy Services Division—Ad Valorem Taxation (LAC 61:V.101, 303, 304, 703, 901, 907, 1103, 1305, 1307, 1503, 2503, 3101, 3103, 3105, 3106, and 3107) .....	765
<b>Social Services</b>	
Office of Community Services—Residential Licensing (LAC 67:V.Chapters 61-71) .....	784
Residential Licensing—Disqualification (LAC 48: I Chapter 88 and LAC 67:III.Chapter 73, and V.Chapters 61-69) .....	831
State Central Registry—Residential Licensing (LAC 67:V.1103, 1105, 6503, 6705, 6955 and 7107) .....	838
Office of Family Support—Child Care Assistance Program—Automated Time and Attendance (LAC 67:III.5102, 5103, 5105, 5107, and 5109) .....	844
Child Care Licensing—State Central Registry (LAC 67:III 7302, 7304, 7355, and 7357) .....	847
Residential Licensing—Disqualification (LAC 48: I Chapter 88 and LAC 67:III.Chapter 73, and V.Chapters 61-69) .....	784
Office of the Secretary—State Central Registry—Criminal Background and Risk Assessment Evaluation (LAC 67:I.201, 203, 301, 303, 305, 307, and 309) .....	850
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Wildlife Rehabilitation Program (LAC 76:V.131) .....	852
<b>IV. NOTICES OF INTENT</b>	
<b>Civil Service</b>	
Board of Ethics—Food and Drink Limit (LAC 52:I.1703) .....	855
Civil Service Commission—Temporary Suspension of Merit Increase Authority .....	855
<b>Education</b>	
Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.613, 1101, 1601, 4311, 5101, and 5103).....	856
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Spill Prevention and Control (LAC 33:IX.Chapter 9)(WQ079).....	858
<b>Governor</b>	
Division of Administration, Office of Facility Planning and Control—Percent for Universal Design Program (LAC 34:III.Chapter 3) .....	860
Division of Administration, Office of Information Technology— Office of Electronic Services; Louisiana Data Base Commission (LAC 4:XI.101-111).....	863
Motor Vehicle Commission—General Provisions (LAC 46:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19) .....	864
<b>Health and Hospitals</b>	
Bureau of Health Services Financing—Early and Periodic Screening, Diagnosis and Treatment Personal Care Services (LAC 50:XV.Chapter 73) .....	872
Inpatient Hospital Services—Non-Rural, Non-State Hospitals Reimbursement Rate Reduction (LAC 50:V.953, 955, 959).....	877
Intermediate Care Facilities for Persons with Developmental Disabilities Reimbursement Rate Increase (LAC 50:VII.32903).....	881
Medicaid Eligibility—Express Lane Eligibility (LAC 50:I.Chapter 11) .....	882
Nursing Facilities—Reimbursement Rate Reduction (LAC 50:VII.1305) .....	884
Pediatric Day Health Care Program (LAC 50:XV.Chapters 275-281) .....	885
Pharmacy Benefits Management Program—Restoration of the Dispensing Fee (LAC 50:XXIX.Chapter 9) ....	887
<b>Transportation and Development</b>	
Office of Highways/Engineering—Outdoor Advertising (LAC 70:III.Chapter 1).....	892
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Reef Fish Harvest Regulations (LAC 67:VII.335) .....	897
<b>V. ADMINISTRATIVE CODE UPDATE</b>	
Cumulative—January 2010 through March 2010 .....	901

<b>VI. POTPOURRI</b>	
<b>Agriculture and Forestry</b>	
Office of Agriculture and Environmental Sciences—Annual Quarantine Listing for 2010 .....	902
<b>Natural Resources</b>	
Office of Conservation—Orphaned Oilfield Sites.....	903
Office of the Secretary, Fishermen's Gear Compensation Fund—Loran Coordinates.....	904
<b>Public Safety and Corrections</b>	
Oil Spill Coordinator's Office—Mosquito Bay Natural Gas Condensate Discharge	
Draft Settlement Agreement .....	904
<b>Social Services</b>	
Office of Community Services—Louisiana's Child and Family Services Plan and Annual Progress and	
Services Report.....	905
<b>VII. INDEX</b> .....	907

# Executive Orders

## EXECUTIVE ORDER BJ 10-05

### Merit Increase Freeze

WHEREAS extraordinary budgetary shortfalls may require continuing cost reduction measures for the 2009-2010 fiscal year and additional shortfalls are expected during the 2010-2011 fiscal year; and

WHEREAS it is critical to prioritize critical services to our citizens over pay increases for unclassified employees; and

WHEREAS difficult and challenging times call for fiscal prudence and shared sacrifice among all of us who serve our fellow citizens; and

WHEREAS the Governor pursuant to the Constitution and Laws of Louisiana, specifically, R.S. 39:75(B)(3), may issue executive orders prohibiting the expenditure of monies for specific items.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of Louisiana do hereby order and direct as follows:

SECTION 1: The authority to award merit increases for all unclassified employees is frozen beginning immediately and continuing through June 30, 2011. During this period of suspension, no appointing authority may grant a merit increase to any unclassified employee nor may any unclassified employee gain eligibility for a merit increase.

SECTION 2: All other elected state officials or entities with constitutional authority are urged to join in this effort to preserve state services to our citizens by exercising their authority to suspend the awarding of salary increases to unclassified state employees starting immediately and continuing through the duration of the 2010/11 fiscal year.

SECTION 3: This freeze shall not affect promotions and performance Planning and Review requirements. Appointing authorities must continue to comply with all Civil Service Rules regarding performance planning and review of employees.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of March, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1004#058

## EXECUTIVE ORDER BJ 10-06

### Executive Branch—Expenditure Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 10 of the 2009 Regular Session of the Louisiana Legislature, the governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government (hereafter "expenditure freeze");

WHEREAS, underlying assumptions and needs in the development of the current year's state budget will be drastically altered by the projected decline in the State's revenues and the interests of the citizens of our state are best served by implementing fiscal management practices to ensure that appropriations will not exceed actual revenues;

WHEREAS, in preparation of the budget challenges in the ensuing year Executive Order BJ 2009-11 Limited Hiring Freeze related to the Expenditure Category of Personnel Services was issued on July 24, 2009, and updated periodically; and, therefore, Personnel Services Expenditures will not be addressed in this Executive Order; and

WHEREAS, to ensure that the State of Louisiana will not suffer a budget deficit due to fiscal year 2009-2010 appropriations exceeding actual revenues, prudent money management practices dictate that the best interests of the citizens of the State of Louisiana will be served by implementing an expenditure freeze throughout the executive branch of state government;

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

SECTION 1: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana (hereafter "Unit and/or "Units"), as described in and/or funded by appropriations through Acts 10, 122 (Section 6), and 40 of the 2009 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall freeze expenditures as provided in this Executive Order.

SECTION 2: Unless specifically exempt by a provision of this Order or with express written approval of the commissioner of administration, no department, agency, and/or budget unit of the executive branch of the State of Louisiana shall make any expenditure related to the expenditure categories of travel, operating services, supplies, professional services, other charges, interagency transfers, acquisitions and major repairs.

SECTION 3:

A. The budget activities funded by Act No. 10 of the 2009 Regular Session of the Louisiana Legislative (hereafter "Act No. 10"), which are exempt from the prohibitions set forth in Section 2 of the Order are as follows:

1. All budget activities directly related to hurricane recovery and rebuilding efforts;

2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;

3. All essential budget activities which are expressly and directly mandated by the constitution, existing court orders, or existing cooperative endeavor agreements;

4. All essential budget activities of statewide control agencies;

5. All essential budget activities directly required for collection of state revenues recognized by the Revenue Estimating Conference; and

6. All budget activities which are financed directly by federal funds.

B. Other budget activities funded by Act No. 10 are exempt from the prohibitions set forth in Section 2 of this Order to the following degree:

1. Essential field travel, and supplies for incarceration, rehabilitation, diagnostic and health services, transportation of inmates, and probation and parole services related to adult corrections, as well as positions and field travel for the Pardon Board and Parole Board in the Department of Public Safety and Corrections, Corrections Services;

2. Essential field travel, and supplies for juvenile secure care facilities and the Field Services Program in the Department of Public Safety and Corrections, Youth Services;

3. Essential field travel and supplies related to direct patient care;

4. Essential State Police commissioned trooper expenses-not including Personnel expenses-as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police;

5. Essential Wildlife and Fisheries commissioned agent expenses-not including Personnel expenses-as well as data processing, and communications, field travel for public safety and regulatory activities of the Enforcement Division, as well as automotive, watercraft and aviation, supplies for the Enforcement Division;

6. Essential instructional and residential expenses-not including Personnel expenses-field travel, and supplies deemed to be absolutely critical for the operations of Special Schools, Recovery School District, Special School District #1, and Youth Challenge;

7. Essential expenses for the State Military Department-not including Personnel expenses-associated with the deployment for backfilling for active duty national guardsmen, and installation management and force protection.

C. The budget activities funded by Act No. 10 which are exempt from the portion of the provisions of Section 2 of this Order that prohibits the expenditure of funds for travel are as follows:

1. Essential travel associated with promoting or marketing the state of Louisiana and/or its products by:

a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or

b) the Department of Economic Development;

2. Essential field travel for the Mental Health Advocacy Service;

3. Essential field travel required for the Office of Legal Affairs, district managers and roving motor vehicle workers in the Office of Motor Vehicles, and inspectors and arson investigators of the Office of the State Fire Marshal in the Department of Public Safety and Corrections, Public Safety Services;

4. Essential field travel for the Municipal Fire and Police Civil Service Commission and the State Police Commission deemed to be essential;

5. Essential travel for the Board of Elementary and Secondary Education for board meetings;

6. Essential field travel associated with Minimum Foundation Program internal auditors and field travel associated with the accountability initiatives and monitoring local teacher assessments.

D. The budget activities funded by Act No. 10 which are exempt from the portions of the provisions of Section 2 of this Order that prohibits the expenditure of funds for supplies are as follows:

1. Essential expenditures of all departments, agencies, offices, boards, and commissions for supplies that total no more than seventy-five (75) percent of the initial appropriation for supplies for the department, agency, office, board or commission from State General Fund (direct) or State General Fund Equivalent for supplies expenditures;

2. Essential supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas;

3. Essential instructional supplies for post-secondary education;

4. Essential automotive supplies for travel excepted in Section 3.

SECTION 4: The commissioner of administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 6: This Order is effective upon signature and shall remain in effect through June 30, 2010, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of March, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1004#057

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Civil Service Civil Service Commission

#### Temporary Suspension of Merit Increase Authority

On March 19, 2010 the State Civil Service Commission adopted Rule 6.14.1 as an emergency rule. That rule as adopted is quoted below and was approved by Governor Jindal on March 19, 2010, as required by Article X, Section 10(C) of the constitution.

The adoption of that rule was done pursuant to Rule 2.10, which limits an emergency rule to a life of 120 days. Consequently, the State Civil Service Commission will hold a public hearing at 9:00 a.m. on Wednesday, May 5, 2010 to consider adoption of the below proposed rule as a final rule. The hearing will be in the Louisiana Purchase Room of the Claiborne Building, 1201 North Third Street, Baton Rouge. The rule that will be considered at that meeting is the same rule that was adopted and approved as mentioned above, and it reads as follows:

#### **Proposed Rule Suspending Merit Increases**

##### Temporary Suspension of Merit Increase Authority

All provisions of the Merit Increase Rule shall be suspended for the period from July 1, 2010 through June 30, 2011. During this period of suspension, no appointing authority may grant a merit increase to any employee nor may any employee gain eligibility for a merit increase.

Consideration of this Rule is for the reasons given above and, also, for the reasons given as explanation in General Circular 1798 that was issued on March 16, 2010 to announce consideration of the rule on an emergency basis. As noted in that general circular, all requirements in Civil Service Rules for Performance Planning and Review will remain in force and effect and must be met.

Jean Jones  
Deputy Director

1004#056

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Scholarship/Grant Programs (LAC 28:IV.1009, 1011, 1013, 1015, and 1017)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking aligns the certification requirements of the TOPS Tech Early Start Award with those for the Early Start Award such that high schools are responsible for certifying that students are eligible for the program and that participating colleges and universities are responsible for ensuring that students enroll in eligible courses.

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

This declaration of emergency is effective April 6, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG10114E)

#### **Title 28**

### **EDUCATION SCHOLARSHIP AND GRANT PROGRAMS**

#### **Part IV. Student Financial Assistance—Higher Education**

#### **Chapter 10. TOPS-Tech Early Start Award**

#### **§1009. Responsibilities of LOSFA**

A. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

B. LOSFA shall conduct audits of participating Louisiana public postsecondary institutions to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining the award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

#### **§1011. Responsibilities of High Schools**

A. The high school shall comply with the reporting requirements of §1703 for all students enrolled in high school.

B. The high school shall determine whether the student is eligible to participate in the TOPS-Tech Early Start program and approve or disapprove the student's participation in the program.

C. The high school's approval of a student's participation in the program by signing the student's application certifies that the student meets the eligibility criteria provided in §1005.A.1-5, and, if applicable, §1007.A.2 and 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§1013. Responsibilities of Louisiana Public**

**Postsecondary Institutions**

A. Each Louisiana public postsecondary institution that offers an industry based occupational or vocational education credential in a top demand occupation shall:

1. determine whether an eligible student has applied for enrollment in a course at that institution to pursue an industry based occupational or vocational education credential in a top demand occupation in accordance with §1903.D;

2. determine whether the student has met the requirements to maintain an award as required by §1007.A.4-6;

3. submit bills to LOSFA in accordance with §1903.B for each eligible student so enrolled;

4. comply with the reporting and records retention requirements of §1903.A and F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§1015. Responsibilities of the Board of Regents**

A. The Board of Regents shall define, maintain, and make available to LOSFA and public postsecondary institutions a list of industry based occupational or vocational education credentials.

B. In the event that the funds appropriated for the TOPS-Tech Early Start Award are insufficient to pay all awards for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to limit the awards to the amount appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 36:

**§1017.**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3111 (December 2005), repealed LR 36:

George Badge Eldredge  
General Counsel

1004#015

**DECLARATION OF EMERGENCY**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

START Savings Program  
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the

Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This rulemaking places in the Rule the established interest rates to be paid on funds in the Louisiana Education Tuition and Savings Fund and on funds in the Savings Enhancement Fund.

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective on March 16, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST10113E)

**Title 28**

**EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 3. Education Savings Account**

**§315. Miscellaneous Provisions**

A. - B.20. ...

21. For the year ending December 31, 2009, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.22 percent.

22. For the year ending December 31, 2009, the Savings Enhancement Fund earned an interest rate of 3.08 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1492 (August 2009), LR 36:

George Badge Eldredge  
General Counsel

1004#014

**DECLARATION OF EMERGENCY**

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

Disproportionate Share Hospital Payments  
Mental Health Emergency Room Extensions  
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in

accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that established a Mental Health Emergency Room Extension (MHERE) and entered into an agreement with the Office of Mental Health (Louisiana Register, Volume 34, Number 8). The department promulgated an Emergency Rule to amend the August 20, 2008 Rule to change the deadline for hospitals to sign an agreement to participate (*Louisiana Register*, Volume 35, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of emergency psychiatric services by increasing access to these services.

Effective April 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-state acute care hospitals that establish a Mental Health Emergency Room Extension.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Medical Assistance Program—Hospital Services**

##### **Subpart 3. Disproportionate Share Hospital Payments**

##### **Chapter 27. Qualifying Hospitals**

##### **§2711. Mental Health Emergency Room Extensions**

A. Medicaid-enrolled non-state, acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and sign an addendum to the Provider Enrollment form (PE-50) by July 1, 2010 shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

A.1. - 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 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#039

## **DECLARATION OF EMERGENCY**

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

Federally Qualified Health Centers  
Service Limit Reduction  
(LAC 50:XI.10503 and 10701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.10503 and 10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment, and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (FQHCs) (*Louisiana Register*, Volume 32, Number 10).

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to reduce the reimbursement rates paid for dental encounters and to reduce the service limits for medically necessary services rendered by federally qualified health centers (*Louisiana Register*, Volume 36, Number 2). The department has now determined that it is necessary to amend the provisions of the January 22, 2010 Emergency Rule to repeal the provisions governing the rate reduction for dental encounters. This action is necessary to assure that Medicaid recipients have access to adequate dental services. It is estimated that implementation of this Emergency Rule will reduce the previously anticipated savings for FQHC services from \$7,534 to \$2,345 for state fiscal year 2009-2010.

Effective April 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the January 22, 2010 Emergency Rule governing federally qualified health centers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XI. Clinic Services**

##### **Subpart 13. Federally Qualified Health Centers**

##### **Chapter 105. Services**

##### **§10503. Service Limits**

A. Federally qualified health center visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21



years of age and for prenatal and postpartum care are excluded from the service limitation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Chapter 107. Reimbursement Methodology**

#### **§10701. Prospective Payment System**

A. - D. ...

E. The PPS per visit rate for each facility will be increased on July 1 of each year by the percentage increase in the published *Medicare Economic Index* (MEI) for primary care services.

I. Repealed.

F. ...

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this proposed 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#035

### **DECLARATION OF EMERGENCY**

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

**Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
New Opportunities Waiver—Reimbursement Rate  
Reduction (LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization

review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to reduce the reimbursement rates paid for certain services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which further reduced the reimbursement rates paid for NOW services (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the August 4, 2009 Emergency Rule to clarify the provisions governing the rate reduction for individualized and family support services (*Louisiana Register*, Volume 35, Number 9). The department amended the provisions of the September 1, 2009 Emergency Rule in order to revise the formatting of LAC 50:XXI.14301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for the New Opportunities Waiver (*Louisiana Register*, Volume 35, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective April 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions governing the reimbursement methodology for the New Opportunities Waiver.

### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XXI. Home and Community Based Services**

### **Waivers**

### **Subpart 11. New Opportunities Waiver**

### **Chapter 143. Reimbursement**

### **§14301. Reimbursement Methodology**

A. - G.2.e. ...

H. Effective for dates of service on or after August 4, 2009, the reimbursement rates for certain services provided in the NOW Waiver shall be reduced.

1. The reimbursement rates for individualized and family support (IFS) services shall be reduced by 3.11 percent of the rates in effect on August 3, 2009.

2. The reimbursement rates for residential habilitation-supported independent living (SIL) services shall be reduced by 10.5 percent of the rates in effect on August 3, 2009.

I. Effective for dates of service on or after September 1, 2009, IFS-Night services and shared IFS services shall be excluded from the 3.11 percent rate reduction.

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:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#040

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Home and Community-Based Services Waivers Residential Options Waiver (LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department now proposes to amend the provisions governing the allocation of waiver opportunities and the delivery of services for greater clarity.

This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding. It is estimated that implementation of this

Emergency Rule will increase expenditures in the Medical Assistance Program by approximately \$52,735 for state fiscal year 2009-2010.

Effective May 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions governing the Residential Options Waiver.

### Title 50

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

### Subpart 13. Residential Options Waiver

#### Chapter 161. General Provisions

##### §16101. Introduction

A. The Residential Options Waiver (ROW), a 1915-(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

##### §16103. Program Description

A. The ROW is designed to utilize the principles of self determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;

2. meets the highest standards of quality and national best practices in the provision of services; and

3. ensures health and safety through a comprehensive system of participant safeguards.

4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. Repealed.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### **§16105. Participant Qualifications**

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1. – 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 36:

#### **§16106. Money Follows the Person Rebalancing Demonstration**

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid-enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid-eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the Money Follows the Person Rebalancing Demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

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 and Office for Citizens with Developmental Disabilities, LR 36:

#### **§16107. Programmatic Allocation of Waiver Opportunities**

A. ROW opportunities will be offered to individuals in the following targeted population groups:

1. children:

a. who are from birth through age 18;

b. who reside in a nursing facility;

c. who meet the high-need requirements for a nursing facility level of care as well as the ROW level of care requirements;

d. who are participants in the MFP Rebalancing Demonstration; and

e. whose parents or legal guardians wish to transition them to a home and community-based residential services waiver; and

2. individuals who reside in a Medicaid enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF-DD bed conversion process.

B. ROW opportunities will be offered to:

1. children who are currently residing in a Medicaid enrolled nursing facility and will be participating in the MFP Rebalancing Demonstration; and

2. individuals who are currently residing in a Medicaid enrolled facility that goes through the ICF-DD bed conversion process.

C. After an individual is offered a ROW opportunity, the individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

1. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing.

a. – c. Repealed.

2. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified.

C.3. – E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **§16109. Admission Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD;

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days;

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **Chapter 163. Covered Services**

#### **§16301. Assistive Technology and Specialized Medical Equipment and Supplies**

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies and services which enable the participant to:

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;

4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;

5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;

6. all service contracts and warranties included in the purchase of the item by the manufacturer; and

7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid state plan service and demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid state plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid state plan, Medicare or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;

2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and

3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **§16303. Community Living Supports**

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community living supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;

2. socialization skills training;

a. Repealed.

3. cognitive, communication tasks, and adaptive skills training; and

a. Repealed.

4. development of appropriate, positive behaviors.

a. – b. Repealed.

C. ...

D. Community living supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met.

1. An agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services.

2. The health and welfare of each participant must be assured through the provision of shared services.

3. Services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination.

4. A shared rate must be billed.

E. – E.1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.

3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.

4. Participants may not live in the same house as CLS staff.

5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.

6. Community living supports shall not be provided in a licensed respite care facility.

a. – d. Repealed.

7. Community living supports services are not available to individuals receiving the following services:

a. shared living;

b. home host; or

c. companion care.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

a. day habilitation;

b. prevocational;

c. supported employment;

d. respite-out of home services; or

e. transportation-community access.

F. – F.1. ...

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **§16305. Companion Care**

A. Companion care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion care services may be furnished through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and

2. community integration and coordination of transportation services, including medical appointments.

3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

1. – 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. – c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions

may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. arranging the delivery of services and providing emergency services as needed;
- b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;
- c. contacting the companion a minimum of once per week or as specified in the participant's POC; and
- d. providing 24-hour oversight and supervision of the Companion Care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. – b. Repealed.

#### D. Companion Responsibilities

1. The companion is responsible for:
  - a. participating in and abiding by the POC;
  - b. ...
  - c. purchasing his/her own food and personal care items.

#### E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

#### F. Service Exclusions

1. Companion care is not available to individuals receiving the following services:

- a. respite care service—out of home;
- b. shared living;
- c. community living supports; or
- d. host home.

2. – 2.d. Repealed.

#### 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 for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **§16307. Day Habilitation Services**

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;

3. – 4. ...

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the Day Habilitation service; however, transportation is payable only when a Day Habilitation service is provided on the same day.

2. – 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

#### E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. respite care services—out of home.

F. Provider Qualifications. Providers must be licensed as an adult day care 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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;
2. preventative services;
3. restorative services;
4. endodontic services;
5. periodontal services;
6. removable prosthodontics services;
7. maxillofacial prosthetics services;
8. fixed prosthodontics services;
9. oral and maxillofacial surgery;
10. orthodontic services; and
11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid state plan before utilizing dental services through the Residential Options Waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16311. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;
2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;
3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and
4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;
2. widening of doorways;
3. modification of bathroom facilities; or
4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and
2. written approval is obtained from the landlord and OCDD.

E. – F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

- a. host home; or
- b. shared living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:
  - a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or
  - b. to purchase or lease a vehicle.
2. – 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

- a. – b. Repealed.
2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.
  - a. Repealed.
  3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.
  4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

- a. In addition, these providers must:
  - i. meet the applicable state and/or local requirements governing their licensure or certification; and
  - ii. comply with the applicable state and local building or housing code standards governing home modifications.
- b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

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 for Citizens with Developmental Disabilities, LR 33:2446 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### **§16313. Host Home**

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;
2. assistance to develop leisure interests and daily activities in the home setting;
3. assistance to develop relationships with other members of the household;
4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and
5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

1. arranging for a host home;
2. making an initial and periodic inspections of the host home; and
3. providing 24-hour oversight and supervision of host home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor.

a. Repealed.

D. Host home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;
2. maintaining and providing data to assist in the evaluation of the participant's personal goals;
3. maintaining adequate records to substantiate service delivery and producing such records upon request;

4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the host home setting; and

5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. – 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

F.1. – I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

2.a. - 3....

J. Provider Qualifications

1. All agencies must:

- a. have experience in delivering therapeutic services to persons with developmental disabilities;
- b. have staff who have experience working with persons with developmental disabilities;
- c. screen, train, oversee and provide technical assistance to the Host Home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and
- d. provide on-going assistance to the Host Home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Social Services as a Class "A" child placing agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of substitute family care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### **§16315. Intensive Community Supports**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### **§16317. Nursing Services**

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the state's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the home health program covered under the Medicaid state plan.



1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. – 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid state plan prior to receiving services through the waiver program.

D. Provider Qualifications

1. In order to participate in the Medicaid program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW Shared Living Conversion Model, be an enrolled shared living services agency with a current, valid license as a supervised independent living agency.

E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities); or

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis—mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16319. One Time Transitional Services

A. One-time transitional services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. – 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;

2. set up fees for utilities;

3. essential furnishings to establish basic living arrangements, including:

a. bedroom and living room furniture;

b. table and chairs;

c. window blinds; and

d. food preparation items and eating utensils;

4. set-up/deposit fee for telephone service;

5. moving expenses; and

6. health and safety assurances including:

a. pest eradication; or

b. one-time cleaning prior to occupancy.

C. Service Limits

1. One-time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One-time transitional services may not be used to pay for:

a. housing, rent or refundable security deposits; or

b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.

2. One-time transitional services are not available to participants who are receiving host home services.

3. One-time transitional services are not available to participants who are moving into a family member's home.

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16321. Personal Emergency Response System (PERS)

A. Personal emergency response system (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...

2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or

3. ...

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

#### D. Service Exclusions

1. Separate payment will not be made for shared living services.

#### E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.

2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

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 for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### §16323. Prevocational Services

A. Prevocational services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. - 2.b....

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.

#### D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of five hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

3.a. - 5.a. Repealed.

#### E. Service Exclusions

1. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. respite care services—out of home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-community access shall not be used to transport ROW participants to any prevocational services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### §16325. Professional Services

A. Professional services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;

2. physical therapist;

3. speech therapist;

4. registered dietician;

5. social worker; and

6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

a. Repealed.

4. provide consultative services and recommendations;

5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;

6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;

a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and

7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and guidelines for support planning.

#### D. Service Exclusions

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a. – d. Repealed.

#### E. Provider Qualifications

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and

b. possess one year of service delivery experience with persons with developmental disabilities.

c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

iii. a supervised independent living agency licensed by the department to provide shared living services; or

iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis—mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

e. Two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

#### §16327. Respite Care Services—Out of Home

A. Respite care services—out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. ...

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

B. Service Limits

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department’s established approval process and require proper justification and documentation.

C. Service Exclusions

1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

- a. shared living;
- b. companion care; or
- c. host home.
- d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

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 for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

**§16329. Shared Living Services**

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

- a. 24-hour staff availability;
- b. assistance with activities of daily living included in the participant’s POC;
- c. a daily schedule;
- d. health and welfare needs;
- e. transportation;
- f. any non-residential ROW services delivered by the Shared Living services provider; and
- g. other responsibilities as required in each participant’s POC.

2. – 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid facility need review approved beds from the total number of certificate of need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department’s operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department’s operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. – d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

- a. community living supports;
- b. respite care services;
- c. companion care;
- d. host home; or
- e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living 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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16331. Specialized Medical Equipment and Supplies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid state plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### §16335. Supported Employment

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. – 3. Repealed.

B. Supported employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. ...

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. – 3.c. ...

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. – 6.c. ...

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

**§16337. Transportation-Community Access**

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

**B. Service Limits**

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

**C. Service Exclusions**

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid state plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

- a. shared living services; or
- b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid Friends and Family Transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

- a. the state minimum automobile liability insurance coverage;
- b. a current state inspection sticker; and
- c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

E.1. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

**Chapter 165. Self-Direction Initiative**

**§16501. Self-Direction Service Option**

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. ...

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. ...

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. ...

ii. fails to follow the personal purchasing plan and the POC;

C.2.d.iii. - D. ...

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary companion care provider.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

## **Chapter 167. Provider Participation**

### **§16701. General Provisions**

A. ...

1. meet all of the requirements for licensure and the standards for participation in the Medicaid program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except host home contractors and companion care workers.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **§16703. Staffing Restrictions and Requirements**

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;

2. spouses for each other;

3. legal guardians for adults or children with developmental disabilities; or

4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

a. become an employee of the participant's chosen waiver provider agency;

b. become a Medicaid-enrolled provider agency; or

c. if the self-direction option is selected, relatives must:

i. become an employee of the self-direction participant; and

ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

## **Chapter 169. Reimbursement**

### **§16901. Reimbursement Methodology**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e. ...

f. registered dietician;

4. support coordination; or

5. supported employment:

a. individual placement; and

b. micro-enterprise.

6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and

a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and

supply the participant with all manufacturers' warranty certificates;

2. assistive technology/specialized medical equipment and supplies.

3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...

2. companion cares; and

3. shared living services;

a. per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;

2. pre-vocational; and

3. supported employment:

a. mobile crew; and

b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. – J. ...

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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

### **§16903. Direct Support Staff Wages**

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;

2. respite services-out of home;

3. shared living;

4. day habilitation;

5. prevocational services; and

6. supported employment.

7. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#053

## **DECLARATION OF EMERGENCY**

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

Home Health Program  
Durable Medical Equipment  
Reimbursement Reduction  
(LAC 50:XIII.10301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates and to repromulgate the general provisions governing the reimbursement methodology, in its entirety, in the appropriate place in the *Louisiana Administrative Code (Louisiana Register, Volume 35, Number 2)*. The final Rule was published September 20, 2009 (*Louisiana Register, Volume 35, Number 9*). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule which further reduced the reimbursement rates paid for medical equipment, supplies and appliances (*Louisiana Register, Volume 35, Number 5*).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions in state fiscal year 2010. The department determined that it was necessary to repeal the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana*



*Register*, Volume 35, Number 8) and amended the reimbursement methodology for durable medical equipment, supplies and appliances to adjust the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction (*Louisiana Register*, Volume 35, Number 9). The department amended the provisions of the September 1, 2009 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances under the Home Health Program (*Louisiana Register*, Volume 35, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs and to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective April 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for medical equipment, supplies and appliances under the Home Health Program.

#### **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE**

#### **Part XIII. Home Health Program**

#### **Subpart 3. Medical Equipment, Supplies and Appliances**

#### **Chapter 103. Reimbursement Methodology**

#### **§10301. General Provisions**

A. – C.4. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 4 percent of the rates on file as of August 3, 2009.

1. The following medical equipment, supplies and appliances are excluded from the rate reduction:

- a. enteral therapy pumps and related supplies;
- b. intravenous therapy and administrative supplies;
- c. apnea monitor and accessories;
- d. nebulizers;
- e. hearing aids and related supplies;
- f. respiratory care (other than ventilators and oxygen);
- g. tracheostomy and suction equipment and related supplies;
- h. ventilator equipment;
- i. oxygen equipment and related supplies;
- j. vagus nerve stimulator and related supplies; and
- k. augmentative and alternative communication devices.

2. Effective for dates of service on or after September 1, 2009, medical equipment, supplies and appliances provided to recipients under the age of 21 are exempt from the 4 percent rate reduction implemented on August 4, 2009.

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 35:1894 (September 2009), amended LR 36:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#041

### **DECLARATION OF EMERGENCY**

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

#### **Home Health Program—Durable Medical Equipment Repeal of Provider Accreditation Requirements (LAC 50:XIII.8501)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.8501 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.

Section 302 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (P.L. 108-173) established provisions which mandated that suppliers of durable medical equipment (DME) and prosthetic and orthotic devices must be accredited by one of the independent accreditation organizations recognized by Medicare in order to receive reimbursement. The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing Medicaid coverage of medical equipment, supplies and appliances in the Home Health Program to adopt Medicare's requirements for provider accreditation (*Louisiana Register*, Volume 36, Number 3). The department has now determined that it is necessary to repeal the provisions governing provider accreditation for medical equipment, supplies and appliances since federal regulations governing Medicare's provider accreditation requirements have changed. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued provider participation, thereby ensuring recipient access to durable medical equipment, supplies and appliances. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2009-2010.

Effective April 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing provider participation for durable medical equipment to repeal the provisions governing provider accreditation.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XIII. Home Health Program**  
**Subpart 3. Medical Equipment, Supplies and Appliances**  
**Chapter 85. Provider Participation**  
**§8501. Accreditation Requirements**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:512 (March 2010), repealed LR 36:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#037

**DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Methodology  
(LAC 50:V.953)

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). The provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department amended the October 20, 2009 Rule to repeal the children's specialty hospital provisions from the rate adjustment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule. This action is being taken to promote

the health and welfare of Medicaid recipients who rely on the services provided by acute care hospitals.

Effective April 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state acute care hospitals.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part V. Hospital Services**

**Subpart 1. Inpatient Hospital Services**  
**Chapter 9. Non-Rural, Non-State Hospitals**  
**Subchapter B. Reimbursement Methodology**  
**§953. Acute Care Hospitals**

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU)

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

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), LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#042

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate Increase (LAC 50:VII.32903)

The Department of Health and Hospitals, 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICF/DD) to implement a wage enhancement payment for direct care staff employed with the facility (*Louisiana Register*, Volume 33, Number 10). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the per diem rate paid to non-state ICF/DDs (*Louisiana Register*, Volume 35, Number 2). The bureau also reduced the rate paid to ICF/DDs for leave of absence days (*Louisiana Register*, Volume 35, Number 9).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions. As a result of the allocation of these funds, the department amended the provisions governing the reimbursement methodology for ICF/DDs to increase the per diem rates (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients and to insure continued provider participation in the Medicaid Program.

Effective May 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities to increase the reimbursement rates.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care

#### Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

#### Chapter 329. Reimbursement Methodology

#### Subchapter A. Non-State Facilities

#### §32903. Rate Determination

A. - I.2.a. ...

J. Effective for dates of service on or after September 1, 2009, the reimbursement rate for non-state intermediate care

facilities for persons with developmental disabilities shall be increased by 1.59 percent of the per diem rate on file as of August 31, 2009.

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:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#043

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

#### Nursing Facilities—Admissions (LAC 50:II.501-511, 10146 and 10157)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopts LAC 50:II.501-511 and repeals 50:II.10146 and 10157 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 Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which repealed the Standards for Payment for Intermediate Care Facility I and II Services and Skilled Nursing Services (*Louisiana Register*, Volume 11, Number 9) in its entirety and adopted revised Standards for Payment for Nursing Facility Services (*Louisiana Register*, Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to adopt provisions governing medical eligibility determination requirements (*Louisiana Register*, Volume 23, Number 10). The Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule to repeal the provisions contained in the January 20, 1996 and the October 20, 1997 Rules governing admission reviews, preadmission screening and medical eligibility determination requirements and to adopt revised provisions governing nursing facility admissions (*Louisiana Register*, Volume 35, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2010 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective May 2, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repeals the provisions of the January 20, 1996 and the October 20, 1997 Rules governing admission reviews, preadmission screening and medical eligibility determination requirements and adopts revised provisions governing nursing facility admissions.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part II. Nursing Facilities**

##### **Subpart 1. General Provisions**

#### **Chapter 5. Admissions**

##### **§501. Preadmission Screening**

A. Preadmission screening shall be performed for all individuals seeking admission to a Medicaid-certified nursing facility, regardless of the source of payment for the nursing facility services or the individual's known diagnoses. The purpose of the preadmission screening and resident review (PASRR) process is to identify applicants or residents who have a diagnosis of serious mental illness or mental retardation and to determine whether these individuals require nursing facility services and/or specialized services for their mental condition.

1. An individual is considered to have a serious mental illness (MI) if the individual meets the requirements on diagnosis, level of impairment and duration of illness as described in federal regulations.

a. **Diagnosis.** The individual has a diagnosis of major mental disorder as categorized by the *Diagnostic and Statistical Manual of Mental Disorders*, 4th Edition (DSM IV), or its successor.

i. A mental disorder may include schizophrenia, mood, paranoid, panic, or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder that may lead to a chronic disability.

ii. A primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia would not be included as a mental disorder unless the primary diagnosis is a major mental disorder as previously defined.

b. **Level of Impairment.** Within the past three to six months, the mental disorder has resulted in functional limitations in major life activities that would be appropriate for the individual's developmental stage.

c. **Duration of Illness.** The individual's treatment history indicates that he/she:

i. received psychiatric services more intensive than outpatient treatment more than once in the past two years; or

ii. as a result of the disorder, experienced an episode of significant disruption to the normal living situation within the last two years that either required supportive services to maintain functioning at home (or in a residential treatment environment) or resulted in intervention by housing or law enforcement officials.

2. An individual is considered to have mental retardation (hereafter referred to as intellectual disability) if the individual meets the criteria as described in the *American Association on Intellectual and Developmental Disabilities' Manual on Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th edition, or its successor.

a. Intellectual disability (ID) is a disability that originates before the age of 18 and is characterized by significant limitations in both intellectual functioning (reasoning, learning, problem solving) and adaptive behavior, which covers a range of everyday social and practical skills.

b. These provisions also apply to persons with related conditions as described in federal regulations.

B. A Medicaid-certified nursing facility shall not admit a person with a diagnosis of a serious mental illness or intellectual disability without a preadmission screening.

**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 and the Office of Aging and Adult Services, LR 36:

##### **§503. Medical Certification**

A. Evaluative data for medical certification (level of care determination) must be submitted to the Office of Aging and Adult Services (OAAS) or its designee for all admissions to Medicaid-certified nursing facilities, regardless of payer source.

1. The following documents are required for all nursing facility admissions:

a. a preadmission screening and resident review (Level I PASRR) form completed by a physician licensed in Louisiana. The Level I PASRR form addresses the specific identifiers of MI or ID that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined prior to admission; and

b. a level of care eligibility tool (LOCET) assessment performed by an appropriate professional.

**NOTE:** These documents must not be dated more than 30 days prior to the date of admission. The Level I PASRR form must be signed and dated on the date that it is completed by the physician.

2. If the individual is seeking nursing facility admission under a specialized level of care, a notification of admission, status change, or discharge for facility care form (BHSF Form 148) indicating which specialized level of care is being sought must also be submitted to OAAS.

3. OAAS or its designee may require the submittal of additional documentation for an admission.

B. If the information on the Level I PASRR does not indicate that the individual may have a diagnosis of MI and/or ID and he/she meets nursing facility level of care, the OAAS may approve the individual for admission to the nursing facility.

1. Once approval has been obtained, the individual must be admitted to the facility within 30 days of the date of the approval notice. The nursing facility shall submit a completed BHSF Form 148 to the parish Medicaid Office and OAAS indicating the anticipated payment source for the nursing facility services.

C. If the information on the Level I PASRR indicates that the individual may have a diagnosis of MI and/or ID, the individual shall be referred to the Office of Mental Health or the Office for Citizens with Developmental Disabilities (the state's mental health and intellectual disability Level II authorities) for a Level II screening to determine level of care and the need for specialized services.

1. Medical certification is not guaranteed for an individual who has been referred for a Level II screening.

2. A Medicaid-certified nursing facility shall not admit an individual identified for a Level II screening until the screening has been completed and a decision is made by the Level II authority.

D. Vendor Payment. Medicaid vendor payment shall not begin prior to the date that medical and financial eligibility is established, and shall only start once the individual is actually admitted to the facility.

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 and the Office of Aging and Adult Services, LR 36:

#### **§505. Categorical Advance Group Determinations**

A. In order to assure timely and appropriate care for applicants, the Level II authority may make an advance group determination by category that takes into account that certain diagnoses, levels of severity of illness or need for a particular service clearly indicates the need for nursing facility admission or that the provision of specialized services is not normally needed. The applicable Level II authority may make an advance group determination that nursing facility care is needed for persons in the following categories.

1. Convalescent Care. If an applicant appears to be in need of Level II assessment but is hospitalized for a serious illness and needs time to convalesce before a valid Level II assessment can be performed, provisions may be made for temporary medical certification for nursing facility care. The maximum period of time that a Level II assessment may be delayed is 90 days. The period of convalescence allowed will be consistent with the diagnosis and medical condition of the individual.

2. Terminal Illness. Terminally ill applicants, who are not a danger to themselves or others, may be categorically approved for nursing facility admission. This categorical eligibility determination is valid for six months at a time, in accordance with the definition of terminal illness used for hospice purposes, and remains valid as long as the applicant's mental condition does not create a barrier to receiving the necessary nursing facility services.

3. Severe Physical Illness. Severely ill applicants, who are not a danger to themselves or others and whose medical condition prevents them from engaging in specialized services, may be categorically approved for nursing facility admission. The attending physician shall determine that the applicant is unable to benefit from specialized services due to the severe level of physical impairment. This categorical determination also remains valid for six months to allow for an individualized assessment of the resident's needs. Severe physical conditions considered in this category include, but are not limited to:

- a. coma;
- b. ventilator dependence;
- c. functioning at a brain stem level;
- d. chronic obstructive pulmonary disease;
- e. Parkinson's disease;
- f. Huntington's disease;
- g. amyotrophic lateral sclerosis; and
- h. congestive heart failure.

#### 4. Provisional Admissions

a. An applicant who is not a danger to himself or others, but who exhibits symptoms of delirium, may be categorically approved for nursing facility admission pending further assessment when the delirium clears and an accurate diagnosis can be made. This categorical determination may be valid for a period not to exceed 30 days.

b. An applicant who is in an emergency situation and requires protective services may be categorically approved for nursing facility admission pending further assessment. This categorical determination may be valid for a period not to exceed seven days.

5. Respite Care. An applicant who qualifies for nursing facility care and is not a danger to self or others, but resides at home with care from a family member or other caregiver, may be categorically approved for admission in order to provide respite to the in-home caregiver. Respite provides relief to the caregiver when that individual is unable to provide care for a short period of time.

6. Dementia/ID. This category applies to applicants who are intellectually disabled or have indications of intellectual disability, but also exhibit symptoms associated with dementia. These individuals require supervision in a structured environment and a planned program of activities. This categorical determination may remain valid for a period not to exceed one year or until such time that the Level II authority makes a determination that an alternative placement is more appropriate.

B. Although an advanced group determination may be made at admission, the applicable Level II authority must still make a determination regarding the need for specialized services (based on an individual evaluation) for continuation of stay.

C. In each case that specialized services are determined not to be necessary, it remains the responsibility of the nursing facility to notify the appropriate agency if the resident's mental condition changes and becomes a barrier to utilizing nursing facility services, or the resident becomes a danger to himself or others.

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 and the Office of Aging and Adult Services, LR 36:

#### **§507. Exempted Hospital Discharges**

A. An individual who is being discharged from a hospital and is seeking nursing facility admission may be exempt from preadmission screening if all of the following criteria are met:

1. the individual is being admitted to a nursing facility (NF) directly from a hospital after receiving acute inpatient care;

2. the individual requires NF services for the condition for which he or she received care in the hospital; and

3. his/her attending physician has certified before the admission to the facility that he or she is likely to require less than 30 days of nursing facility services.

B. If after admission it becomes apparent that a longer stay is required, the nursing facility must refer the individual to the appropriate Level II authority for assessment within 30 days of the admission date.

1. Approval for the admission will continue to the fortieth calendar day from the date of admission pending the Level II determination.

C. Exempted hospital discharges are only applicable for persons with MI and/or ID. This exempted discharge does not apply to any other program or for transfers between nursing facilities.

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 and the Office of Aging and Adult Services, LR 36:

#### **§509. Changes in Level of Care and Status**

A. The nursing facility shall notify the parish Medicaid office via the BHSF Form 148 of the following changes in a resident's circumstances:

1. changes in the level of care;
2. transfers to another nursing facility;
3. changes in payer source;
4. hospital/home leave and returns; or
5. discharges home, death or any other breaks in facility care.

B. The nursing facility must inform the appropriate Level II authority if an individual with a diagnosis of MI and/or ID is subject to readmission or interfacility transfer and there has been a substantial change in the individual's condition. Readmissions and interfacility transfers are subject to annual resident reviews rather than preadmission screening.

1. An individual is considered to be a readmission if he/she was readmitted to a facility from a hospital to which he/she was transferred for the purpose of receiving care.

2. Interfacility transfer occurs when an individual is transferred from one NF to another NF, with or without an intervening hospital stay.

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 and Office of Aging and Adult Services, LR 36:

#### **§511. Denials and Appeals Process**

A. If an individual is determined not to need nursing facility services and is denied admission, the individual has a right to appeal the decision through the department's established appeal procedures.

1. A denial notice will be sent to the individual and he/she may use that letter to request a fair hearing.

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 and Office of Aging and Adult Services, LR 36:

### **Subpart 3. Standards for Payment**

#### **Chapter 101. Nursing Facilities**

#### **Subchapter F. Vendor Payments**

#### **§10146. Medical Eligibility Determination Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR.23:1317 (October 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

### **Subchapter H. Admission Review and Pre-admission Screening**

#### **§10157. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#044

### **DECLARATION OF EMERGENCY**

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

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Low Income and Needy Care Collaboration  
(LAC 50:V.5313, 5513, 5713, 5913 and 6115)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5313, §5513, §5713, §5913 and §6115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 22, Number 1). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state public hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). The Department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for outpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental

payments to acute care general hospitals (*Louisiana Register*, Volume 36, Number 1). This initiative, known as the Low Income and Needy Care Collaboration, will provide supplemental payments to non-rural, non-state hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2010 Emergency Rule.

This action is being taken to secure new federal funding and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective May 2, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Hospitals**

##### **Subpart 5. Outpatient Hospitals**

##### **Chapter 53. Outpatient Surgery**

##### **Subchapter B. Reimbursement Methodology**

##### **§5313. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the

difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:

##### **Chapter 55. Clinic Services**

##### **Subchapter B. Reimbursement Methodology**

##### **§5513. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:

##### **Chapter 57. Laboratory Services**

##### **Subchapter B. Reimbursement Methodology**

##### **§5713. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for laboratory services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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 Service Financing, LR 36:1900 (September 2009), amended LR 36:

**Chapter 59. Rehabilitation Services**  
**Subchapter B. Reimbursement Methodology**  
**§5913. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:

**Chapter 61. Other Outpatient Hospital Services**  
**Subchapter B. Reimbursement Methodology**  
**§6115. Non-Rural, Non-State Hospitals**

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.65 percent of the rates effective as of August 3, 2009. Final reimbursement shall be at 78.48 percent of allowable cost through the cost settlement process.

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

b. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:



a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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 Service Financing, LR 35:1900 (September 2009), amended LR 36:

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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#045

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program  
Restoration of the Dispensing Fee  
(LAC 50:XXIX.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 32, Number 6). Act 801 of the 2006 Regular Session of the Louisiana Legislature directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. In order to comply with the directives of Act 801, the department promulgated a Rule amending the provisions of

the June 20, 2006 rule governing methods of payments to increase the dispensing fee on prescription drugs (*Louisiana Register*, Volume 34, Number 1). CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. The department promulgated an Emergency Rule to repeal the January 20, 2008 Rule and restore the repealed provisions of the June 20, 2006 Rule in the Administrative Code (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule is being promulgated to continue the provisions of the December 21, 2009 Emergency Rule. This action is being taken to assure that the administrative rules governing the Pharmacy Benefits Management Program are in compliance with the Medicaid State Plan.

Effective April 21, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 20, 2008 Rule and reinstates the repealed provisions of the June 20, 2006 Rule governing the methods of payment for the Pharmacy Benefits Management Program.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XXIX. Pharmacy

#### Chapter 9. Methods of Payment

##### Subchapter A. General Provisions

##### §901. Definitions

\* \* \*

*Dispensing Fee*—Repealed.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended LR 34:87 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

##### Subchapter B. Maximum Allowable Overhead Cost

##### §915. Cost Determination

###### A. Definitions

###### *Adjustment Factors*—

- a. CPI—all item factor;
- b. CPI—medical care factor;
- c. Wage Factor. Each of the above adjustment

factors is computed by dividing the value of the corresponding index for December of the year preceding the overhead year and by the value of the index one year earlier (December of the second preceding year).

d. ROI. One year treasury bill rate applied to a portion of prescription drug cost (17 percent) in recognition of inventories maintained for the purpose of filling prescriptions.

*Base Rate*—the rate calculated in accordance with §917.A.2, plus any base rate adjustments which are in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the 1990/91 fee survey findings of average cost for pharmacies representative of the average pharmacy participating in Medicaid reimbursement (15,000 - 50,000 Rx volume). This rate was then inflated forward to December 1990 to establish the first overhead cost maximum.

*Base Rate Components*—the base rate is the summation of the components shown below. Each component is

intended to set the maximum allowable for the costs indicated by its name.

Base Rate Component	Adjustment Factor
Pharmacist Salaries	CPI-Medical Care
Other Salaries	WAGE
Other Routine Services	CPI-All Items
Inventory Cost	ROI(1)
Fixed Cost	None(2)
Return on Equity	None(3)
	(1)No return on equity allowed
	(2)No Inflation allowed
	(3)Adjusted by ROE Factor
	(4)Indices

a. CPI—All Items. The *Consumer Price Index for all Urban Consumers—Southern Region* (All items line of Table 12) as published by the United States Department of Labor.

b. CPI—Medical Care. The *Consumer Price Index for all Urban Consumers—Southern Region* (Medical Care line of Table 12) as published by the United States Department of Labor.

c. Wage. The average annual wage for production or nonsupervisory service workers as furnished by the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be utilized to calculate the adjustment factor based upon the change which has occurred since December of the preceding year.

d. ROI. Interest Rates—Money and Capital Markets. The average percent per year for one year U.S. Treasury bills taken from the *Federal Reserve Bulletin* report on Money Market Rates (line 17) for the preceding calendar year.

*Maximum Allowable Overhead Cost*—overhead cost is determined through use of cost survey results adjusted by various indices to assure recognition of costs which must be incurred by efficiently and economically operated providers. The cost determined is referred to as a maximum allowable to reflect application of the "lesser of" methodology for determining total reimbursement.

*Overhead Year*—the one-year period from July 1 - June 30 of the next calendar year during which a particular rate is in effect. It corresponds to a state fiscal year.

B. Determination of Limits. Limits on overhead cost are established through the overhead cost survey process which classifies cost in accordance with generally accepted accounting principles and Medicare principles regarding the allowability of cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§917. Maximum Allowable Overhead Cost Calculation**

A. The most recent cost survey results will be utilized to establish base cost for professional salaries; other salaries; other routine costs; and fixed cost. Claims processing data

for claims paid in the current overhead period will be utilized to determine average drug cost. Seventeen percent of this cost will be utilized as base prescription inventory. The base prescription inventory amount shall not be added to the overhead cost maximum allowable. Base prescription inventory is recognized as an allowable investment subject to a return on investment only. Calculation of maximum allowable overhead cost per prescription shall be performed as follows:

1.  $NORC = ORC \times CPIF$ :
  - a. NORC is the new other routine cost component;
  - b. ORC is the current (base) routine cost component;
  - c. CPIAI is the CPI - All items Economic Adjustment Factor.
2.  $NPS = PS \times CPIMC$ :
  - a. NPS is the new pharmacist salaries cost component;
  - b. PS is the current (base) pharmacist salaries cost component;
  - c. CPIMC is the CPI - Medical Care Economic Adjustment Factor.
3.  $NOS = OS \times W$ :
  - a. NOS is the new other salaries cost component;
  - b. OS is the current (base) salaries cost component;
  - c. W is the Wage Economic Adjustment Factor.
4.  $NROI = ROI \times IR$ :
  - a. NROI is the new return on investment component;
  - b. ROI is 17 percent of the current average drug cost;
  - c. IR is the Interest Rate - Money and Capital Markets.

5.  $Rate = (NORC + NPS + NOS + FCC) \times ROEF + NROI$  where:

- a. NORC, NPS, NOS, and NROI are computed by formulae in Paragraphs 1-4 above;
- b. FCC is the fixed cost component which does not include prescription drug inventory;
- c. ROEF is the return on equity factor of 1.05 applied to all cost components except return on investment which is calculated separately.

B. After formal adoption of the new maximum allowable overhead cost, the components computed above will become the base components used in calculating the next year's overhead maximum allowable, unless they are adjusted as provided in §911.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§919. Parameters and Limitations**

A. Method of Calculation. All calculations described herein shall be carried out algebraically.

B. Rounding in all calculations the base maximum allowable and the base components will be rounded to the nearest one cent (two decimal places) and the Economic Adjustment Factors will be rounded to four decimal places.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### §921. Interim Adjustment to Overhead Cost

A. If an unanticipated change in conditions occurs which affects the overhead costs of at least 50 percent of the enrolled providers by an average of five percent or more, the maximum allowable overhead cost may be adjusted. Medicaid of Louisiana will determine whether or not the maximum allowable overhead cost limit should be changed when requested to do so by 10 percent of the enrolled pharmacies. The burden of proof as to the extent and cost effect of the unanticipated charge will rest with the entities requesting the change. Medicaid of Louisiana, however, may initiate an adjustment without a request to do so.

1. Temporary Adjustments. Temporary adjustments do not affect the base cost used to calculate a new maximum allowable overhead cost limit. Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, occur after the end of the period covered by the index, i.e., after the December preceding the limit calculation. Temporary adjustments are effective only until the next overhead cost limit calculation which uses economic adjustment factors based on index values computed after the change causing the adjustment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### §923. Cost Survey

A. Every three years a cost survey shall be conducted which includes cost data for all enrolled pharmacy providers. Participation shall be mandatory for continued enrollment as a pharmacy provider. Cost data from providers who have less than 12 months of operating data shall not be utilized in determining average overhead cost or grouping providers by prescription volume. Pre-desk reviews shall be performed on all cost surveys to determine an average provider profile based upon total prescription volume. Through statistical analysis, minimum and maximum volume ranges shall be established which represent the majority of providers participating in Medicaid reimbursement. Cost surveys of providers whose prescription volumes are above or below the volume range established, shall not be utilized in calculating average overhead cost. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

B. Cost Finding Procedures. The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a

particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principles.

C. Inflation Adjustment. Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate Consumer Price Index Indicator (Table 12, Southern Region, *Urban Consumer*) and wage indicator produced by the U.S. Department of Labor Statistics shall be utilized.

D. In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

1. an average usual and customary charge, or gross margin for each pharmacy;
2. the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription;
3. computation of the average percentage of markup per prescription; and
4. the computation of average usual and customary charges shall include adjustments to allow comparability with upper limits for prescription reimbursement utilized by Medicaid of Louisiana.

E. Statistical Analysis. Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

1. an average dispensing cost for pharmacies;
2. analysis of the correlations among overhead costs and parameters deemed relevant to pharmacy costs;
3. the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership, and number of Medicaid claims paid:

a. before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

#### F. Survey Results

1. Medicaid of Louisiana shall consider survey results in determining whether the maximum allowable overhead cost should be rebased. Where the overhead cost survey findings demonstrate the current maximum allowable is below average cost or above the eightieth percentile of cost, rebasing shall be required.

2. Medicaid of Louisiana may review the survey data and establish a new cost base utilizing the cost survey findings and any other pertinent factors, including, but not limited to:

- a. inflation adjustment;
- b. application of return on equity;
- c. recognition of inventory investment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§925. Dispensing Fee**

##### **A. Maximum Allowable Overhead Cost**

1. The maximum allowable overhead cost will remain at the level established for state fiscal year 1994-95. This maximum allowable overhead cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the maximum allowable overhead costs.

B. Provider participation in the Louisiana Dispensing Fee Survey shall be mandatory. Failure to cooperate in the Louisiana Dispensing Fee Survey by a provider shall result in removal from participation as a provider of pharmacy services under Title XIX. Any provider removed from participation shall not be allowed to re-enroll until a dispensing fee survey document is properly completed and submitted to the bureau.

##### **C. Repealed.**

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter C. Average Wholesale Price**

##### **§935. Estimated Acquisition Cost Formula**

###### **A. - B.1.c. ...**

2. Louisiana's maximum allowable cost limitation plus the maximum allowable overhead cost;

3. federal upper limits plus the maximum allowable overhead cost; or

###### **4. - c. ...**

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter D. Maximum Allowable Costs**

##### **§945. Reimbursement Methodology**

###### **A. ...**

1. The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

2. Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescription does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agency and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

###### **3. Repealed.**

###### **B. - F. ...**

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88

(January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§949. Cost Limits**

##### **A. - A.1.a. ...**

b. At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

##### **2. ...**

3. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting:

##### **A.3.a - B.1. ...**

2. The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advanced notice of any additions, deletions, or adjustments in price. Any provider may request and receive at no charge, one complete listing annually.

##### **B.3. - D. ...**

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

##### **D.2. - E.2. ...**

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter E. 340B Program**

##### **§963. Reimbursement**

###### **A. - B. ...**

C. Dispensing Fees. The covered entity shall be paid a dispensing fee of \$8.10 for each prescription dispensed to a Medicaid patient, unless the covered entity has implemented the carve-out option, in which case the covered entity shall be paid the state's existing maximum allowable overhead cost. With respect to contract pharmacy arrangements in which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the \$8.10 dispensing fee on behalf of the covered entity, unless the covered entity elects the Medicaid carve-out, in which case the contract pharmacy shall be paid the state's existing maximum allowable overhead cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

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

Alan Levine  
Secretary

1004#046

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Rural Health Clinics  
Repeal of Reimbursement Rate Reduction  
(LAC 50:XI.16701)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing Rural Health Clinics in LAC 50:XI.16701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 10). As a result of a budgetary shortfall in state fiscal year 2010, the bureau promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for rural health clinics (RHCs) to reduce the reimbursement rates paid for dental encounters (*Louisiana Register*, Volume 36, Number 2). The department has now determined that it is not necessary to reduce the reimbursement rates for dental encounters. Therefore, the department proposes to repeal the provisions of the January 22, 2010 Emergency Rule governing rural health clinics. This action is necessary to assure that Medicaid recipients have access to adequate dental services.

Effective April 20, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing repeals the January 22, 2010 Emergency Rule governing the reimbursement methodology for rural health clinics.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

#### Subpart 15. Rural Health Clinics

### Chapter 167. Reimbursement Methodology §16701. Prospective Payment System

A. - D. ...

D.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1004#038

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Child Care Assistance—Job Search  
(LAC 67:III. 5103, 5104 and 5109)

The Department of Social Services (DSS), Office of Family Support (OFS), has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III, Subpart 12, Chapter 51, §§5103, 5104, and 5109, Child Care Assistance Program. This Emergency Rule, effective January 1, 2010, will remain in effect for a period of 120 days.

This declaration is necessary to extend the original Emergency Rule which was published January 20, 2010, and was effective January 1, 2010, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the June 20 issue of the *Louisiana Register*).

Due to the necessity of operating the Child Care Assistance Program (CCAP) with available funding, the agency feels it is necessary to discontinue Job Search as a countable Employment and Training (E&T) activity. Due to budget constraints, this will align with the department's requirement to ensure core services are provided to assist needy families during difficult economic times. This Rule should result in a reduction of CCAP cases and will allow the department to address the child care needs of participants who are currently employed or in an approved educational activity.

#### Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 12. Child Care Assistance Program

### Chapter 51. Child Care Assistance Program

#### Subchapter A. Administration, Conditions of Eligibility, and Funding

### §5103. Conditions of Eligibility

A. - B.3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed for a minimum average of 25 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage; or

b. attending a job training or educational program for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph B.4.b of this Section that averages, effective April 1, 2003, at least 25 hours per week.

d. Exception. A household in which all of the members described in Paragraph B.4 of this Section meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

B.5. - B.6. ...

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the state. Required verification includes birth verification for all children under 18 years of age, proof of all countable household income, proof of the hours of all employment or education/training, and effective October 1, 2004, proof of immunization for each child in need of care.

B.8 - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:

#### **§5104. Reporting Requirements Effective February 1, 2004**

A. - B.1. ...

2. an interruption of at least three weeks or termination of any TEMP's employment or training; or

3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 36:

### **Subchapter B. Child Care Providers**

#### **§5109. Payment**

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

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

B.3.c. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:

Kristy H. Nichols  
Secretary

1004#024

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Large Coastal Shark Closure—Commercial Fishery**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its rule LAC 76:VII.357.M.2 which allows the secretary authority to modify seasons to maintain consistency with the adjacent federal waters, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., March 17, 2010, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2 (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark and tiger shark), will close until further notice. This closure will not pertain to persons holding a Federal Shark Research Permit issued by NOAA Fisheries Service, when those persons are legally fishing under the regulations promulgated for that permit including that a NMFS-approved observer is aboard the vessel. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks, whether taken from within or without Louisiana waters, except for a Federal Shark Research Permit holder, when legally operating under that Permit. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure, or from Federal Shark Research Permit holders, provided that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries Service that the harvest of large coastal sharks in the federal waters of the Gulf of Mexico will close at 11:30 p.m. local time on March 17, 2010, and will be closed until 30 days after promulgation of seasonal rules for the 2011 shark season. The commercial season for harvest of large coastal sharks in Louisiana waters will remain closed until the announcement is made of the seasons for the harvest of large coastal sharks in federal waters off of Louisiana.

Establishing this closure is necessary to ensure that compatible regulations are in effect, and to increase effectiveness of enforcement operations.

Robert J. Barham  
Secretary

1004#002

# Rules

## RULE

### Department of Economic Development Office of Business Development

#### CDC Certification Program (LAC 13:I.Chapter 37)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., R.S. 47:6031 and R.S. 33:130.751 et seq., the Department of Economic Development hereby adopts the following Rule. The purpose of this Rule is to establish program policies and procedures in the administration of the Community Development Corporation and Community Development Financial Institution Certification Program.

#### Title 13

#### ECONOMIC DEVELOPMENT

#### Part I. Financial Incentive Programs

#### Chapter 37. Louisiana Community Economic Development Act

#### Subchapter A. General Provisions

#### §3701. Purpose

A. The purpose of this Chapter is to administer the Louisiana Community Economic Development Act as established by R.S. 33:130.751 et seq. and R.S. 47:6031.

B. The purpose of this program is to provide for community development corporations and community development financial institutions and to encourage economic development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:000 (April 2010).

#### §3703. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 33:130.751 et seq., unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Award Agreement*—that agreement or contract hereinafter referred to between the applicant and the department through which, by cooperative endeavor agreement or otherwise, the parties set forth the terms, conditions, and performance objectives of the award provided pursuant to these rules.

*Community Development Corporation (CDC)*—a non-profit corporation which satisfies all of the requirements of R.S. 33:130.752(1) and meets the LANO standards of excellence.

*Community Development Financial Institution (CDFI)*—an organization which satisfies all of the requirements of R.S. 33:130.752(2).

*Department*—Department of Economic Development, or their designee.

*Donation*—either *inter vivos* or *mortis causa*, in the form established by Louisiana law.

*Contribution*—a gift, payment, or deposit of money or anything of value, or the forgiveness of a loan or of a debt.

*Low Income*—an income level at or below 80 percent of the mean income for a family of similar size within the state.

*Sale Below Cost*—a contract whereby a person transfers ownership of a thing to another for a price in money, in the form established by Louisiana law, at a price below its appraised value, as evidenced by appropriate documentation.

*Secretary*—Secretary of the Department of Economic Development, or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:750 (April 2010).

#### Subchapter B. Certification Program

#### §3705. Eligibility Requirements for Certification

A. Community Development Corporation (CDC). An applicant must meet all of the following requirements:

1. is chartered pursuant to Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950;
2. is tax exempt pursuant to Section 501(C)(3) of the Internal Revenue Code of 1986, as amended;
3. has a primary mission of developing and improving low-income communities and neighborhoods through economic and related development;
4. has activities and decisions initiated, managed, and controlled by the constituents of the community served;
5. does not provide credit, capital, or other assistance from public funds in an amount greater than twenty-five thousand dollars at one time or in one transaction;
6. is not a non-profit organization with the sole purpose of providing housing to neighborhoods or technical assistance to other nonprofit organizations;
7. has been certified or recertified as a community development corporation as provided in this Subpart; and
8. meets the LANO standard of excellence.

B. Community Development Financial Institute (CDFI). An applicant must meet all of the following requirements:

1. has a primary purpose of promoting community development by providing credit, capital, or development services to small business or home mortgage assistance to individuals, including, but not limited to, capital access programs, micro-lending, franchise financing, and guaranty performance bonds;
2. maintains, through representation on its governing board, accountability to persons in need of the institution's services;
3. is not an agent or instrumentality of the United States, or of a state political subdivision of a state, nor maintains an affiliate relationship with any of these entities;
4. maintains a goal of providing a majority of its services to low-income individuals, minorities, or females or in rural areas;
5. provides capital and technical assistance to small or micro-business or mortgage assistance to individuals;



6. does not provide credit, capital, or other assistance in an amount greater than two hundred fifty thousand dollars at one time or in one transaction;

7. has been certified or recertified as a community development financial institution as provided for in this Subpart; and

8. may be a federally or state-chartered financial institution holding company which qualifies as a community development financial institution only if the holding company and the subsidiaries and affiliates of the holding company collectively satisfy the requirements of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:750 (April 2010).

### §3707. Application Procedures

A. An applicant for certification shall submit the following documents to the department:

1. complete, notarized certification application;
2. organizational management;
  - a. certificate of incorporation;
  - b. either 501(c)(3) tax exempt letter or CDFI fund certification letter;
  - c. by-laws; and
  - d. program of work;
3. board information;
  - a. names and addresses of the partners, officers, directors or trustees and those principal owners or members;
  - b. minutes of the four most recent board of directors meetings;
4. financial information;
  - a. a copy of the most recent financial audit; and
  - b. a copy of the fiscal budget, including year-to date expenditures;
5. business plan;
6. an application fee of \$300;
7. any additional information requested by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:751 (April 2010).

### §3709. Qualification

A. The department shall review the application and supporting documentation, and if necessary conduct a site visit to determine qualification.

B. The department shall issue the applicant a final written determination, indicating either approval or denial of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:751 (April 2010).

### §3711. Duration of Certification

A. If approved, certification shall be valid for two years from the date of certification.

B. A certified CDC or CDFI shall submit to the Department, on or before the anniversary date of their

certification; a notarized annual financial report complying with the requirements of R.S. 33:130.754(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:751 (April 2010).

### §3713. Renewal of Certification

A. Certification may be renewed for subsequent two-year periods.

B. Applicants must re-apply to the department, submit all required documentation and an application fee of \$175.

C. The department shall review the application, supporting documentation, and verify that all reporting requirements have been complied with, to determine qualification for the re-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:751 (April 2010).

### §3715. Denial of Certification

A. The department shall serve notice of intent to deny certification or renewal of certification, or to revoke an existing certification.

B. Such notice shall be a written determination by the department, including a brief statement of the reasons alleged for denial.

C. Such notice shall be served by certified mail or by mail service requiring a return receipt.

D. A denied applicant may request a hearing within 30 days of receiving notice, by filing a written request for hearing with the department.

1. Such hearing shall be conducted pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:130.751 et seq., and 47:6031.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:751 (April 2010).

### Subchapter C. Administration of Grants and Loans.

#### §3717-3725 Reserved

#### Subchapter D. Certification of Tax Credits

#### §3727-3735 Reserved

Kristy Mc Kearn  
Undersecretary

1004#021

### RULE

#### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Standard Certificates for Teachers in Nonpublic/Charter Schools (LAC 28:CXXXI.315)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §315. Standard Certificates for Teachers in Nonpublic/Charter Schools. This revision in policy would

specify that any individual with the appropriate teaching experience may be issued a Level 2\*, Level 3\*, Type B\*, or Type A\* certificate if they have been employed in a private or charter school and that any teacher who enters a Louisiana public school, other than a charter school, would have to complete the Louisiana Teacher Assistance and Assessment Program.

**Title 28**  
**EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for  
State Certification of School Personnel**  
**Chapter 3 Teaching Authorizations and Certifications**  
**Subchapter A. Standard Teaching Authorizations**  
**§315. Standard Certificates for Teachers in  
Nonpublic/Charter Schools**

A. A standard certificate with an asterisk (\*) following the certificate type is issued to a teacher in a non-public school or charter school setting who has not participated in the state's Louisiana Teacher Assistance and Assessment Program (LaTAAP). The asterisk (\*) refers to a statement printed at the bottom of the certificate: "If this teacher enters a public school other than a charter school in Louisiana, he/she will be required to successfully complete the state teacher assessment program."

B. Level 2\* (2-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

- a. a Louisiana Level 1 certificate;
- b. successfully taught for three years in area(s) of certification;
- c. completed a teacher assessment program for three years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 2\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Level 2\* certificate is valid in a nonpublic or charter school setting. If the teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program. Upon employment in a public school other than a charter school, this teacher must begin to complete 150 clock hours of professional development over a five year period to renew the higher level certificate.

C. Level 3\* (3-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

- a. a Louisiana Level 1 or Level 2\* certificate;
- b. successfully taught for five years in the area(s) of certification;
- c. master's degree from a regionally accredited college or university; and
- d. completed a teacher assessment program for three consecutive years at the same nonpublic or charter

school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Level 3\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Level 3\* certificate is valid in a nonpublic or charter school setting. If the teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program. Upon employment in a public school other than a charter school, this teacher must begin to complete 150 clock hours of professional development over a five year period to renew the higher level certificate.

D. Type B\* (B-asterisk) Certificate—a lifetime nonpublic or charter school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the Louisiana Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

- a. a Louisiana Type C certificate;
- b. successfully taught for three years in area(s) of certification; and
- c. completed a teacher assessment program for three consecutive years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type B\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Type B\* certificate is valid for life of continuous service in a nonpublic or charter school setting. If the teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program.

E. Type A\* (A-asterisk) Certificate—a lifetime nonpublic or charter school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

- a. a Louisiana Type C, Type B, or Type B\* certificate;
- b. successfully taught for five years in the area(s) of certification;
- c. master's degree from a regionally accredited college or university;
- d. completed a teacher assessment program for three consecutive years at the same nonpublic or charter school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. The request for the Type A\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

3. The Type A\* certificate is valid for life of continuous service in a nonpublic or charter school setting. If this teacher enters a Louisiana public school other than a charter school, he/she will be required to successfully complete the Louisiana Teacher Assistance and Assessment Program.

#### F. Renewal Guidelines for Level 2\* and Level 3\* Certificates

1. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five-year time period immediately preceding the request for renewal. The request for the Level 2\* or Level 3\* certificate must be submitted directly to the Louisiana Department of Education by the Louisiana employing authority.

2. A teacher with an existing Level 2\* or Level 3\* teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

3. If the holder of an expired Level 2\* or Level 3\* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the Louisiana employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

4. A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

a. Educators may earn one CLU for each clock hour of active engagement in a high quality professional development activity approved by the employing authority. Each educator is responsible for maintaining required documentation and for reporting earned CLUs in a manner prescribed by the employing authority. Earned CLUs transfer across Local Education Agencies (LEAs).

b. An educator who holds a Level 2\* or Level 3\* professional license is responsible for maintaining documentation regarding acquisition of 150 CLUs for purposes of renewal and for completing the necessary paperwork every five years to renew his/her license. Upon submission of the renewal application to the State, the employing authority must provide an assurance statement signed by the superintendent or his/her designee, with the

required listing of earned CLUs as documented by the educator seeking licensure.

#### G. Reinstating Lapsed Levels 2\* or 3\*, Types B\* or A\* Certificates

1. If the holder of a Level 2\*, Level 3\*, Type B\*, or Type A\* certificate allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

2. To reinstate a lapsed certificate, the holder must present evidence that he/she earned six semester hours of credit in state-approved courses (see Chapter 13) during the five year period immediately preceding request for reinstatement.

3. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1801 (October 2006), amended LR 36:752 (April 2010).

Jeanette B. Vosburg  
Executive Director

1004#019

### RULE

#### Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs—Programmatic Intervention and Acronyms (LAC 28:XLV.501 and 601)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 996—Standards for Approval of Teacher and or Educational Leader Preparation Programs: §501. Programmatic Intervention and §601. Acronyms*. This revised policy will define the policy of the Value Added Report for alternate certification programs in Level 4 and Level 5. The proposed policy stipulates that for continued state approval, public and private higher education institutions and private providers that offer teacher certification programs must maintain value added assessment results at Level 3 or higher. Any teacher preparation program that receives a Level 4 or 5 result in any content area shall immediately be assigned a designation of Programmatic Intervention and must have the program reviewed by experts in that content area. The proposed policy requires the provider to develop a corrective action plan that must be approved by the board. Failure to improve value added assessment results within the Board of Elementary and Secondary Education approved time frame may result in loss of state approval.

**Title 28  
EDUCATION**

**Part XLV. Bulletin 996—Standards for Approval  
of Teacher and/or Educational Leader**

**Preparation Programs**

**Chapter 5. Teacher Preparation Program  
Accountability**

**§501. Programmatic Intervention**

A. In order to offer a state-approved teacher preparation program that allows teachers to become certified by the LDOE, public and private higher education institutions must follow the process/procedures detailed in Chapter 2 of this document. Private providers wishing to offer a state-approved teacher preparation program must meet all requirements contained in the Program Standards and Approval Process for Private Providers document available from <http://www.teachlouisiana.net>. For continued state approval, public and private higher education institutions and private providers must maintain value added assessment results at Level 3 or higher.

B. The Louisiana Value Added Assessment of Teacher Preparation Programs (VAA-TPP) assesses the impact of new teachers from specific teacher preparation programs on student achievement. Based on this assessment, teacher preparation programs are identified as Level 1 (program completers performing above experienced teachers), Level 2 (program completers performing similarly to experienced teachers), Level 3 (program completers performing similarly to new average teachers), Level 4 (program completers performing more poorly than average new teachers) or Level 5 (program completers performing significantly more poorly than average new teachers). The VAA-TPP has been developed and is supported by the BOR and BESE.

C.1. Any teacher preparation program that receives a Level 4 or 5 result in any content area shall immediately be assigned a designation of Programmatic Intervention. Programmatic intervention will include a review of the existing program in that content area by a team composed of key personnel within the program, a nationally recognized expert from within or outside the state identified by the program provider and a content area specialist designated by the State Superintendent of Education. The review must be completed within one year of the Programmatic Intervention designation and be used to create a corrective action plan to address the needs. Subsequent to the review, the public or private higher education institution or private provider will make a brief report to BESE that will specify:

- a. the findings of the review;
- b. the corrective action plan;
- c. the time frame for implementation of the corrective action plan and when changes in their value added assessment results would be anticipated to occur based on these actions; time frames may vary depending on the program type;
- d. the institution's plan to assess implementation of the corrective action plan and what evidence will be collected demonstrating impact on current teacher candidates.

2. Upon BESE approval of Subparagraphs a-d listed above, the program will be allowed to continue to certify teachers under the designation of Programmatic Intervention until value added assessment results improve to a Level 3 or higher.

D. BESE will conduct a progress review of any state approved teacher preparation program that fails to improve its value added assessment results to a Level 3 or higher within the BESE approved time frame identified in the corrective action plan. This progress review may result in an extended deadline for the teacher preparation program to improve its value added assessment results or loss of state approval. Any state approved teacher preparation program that loses state-approval will not be allowed to offer teacher preparation programs that result in certification in the content area(s) that received the Level 4 or 5. A value added assessment Level 4 or 5 in reading could impact state approval in multiple content areas. In order to re-establish state approval to certify teachers in the content area(s), public and private universities must follow the process/procedures developed by the BOR. Private providers wishing to re-establish state approval in content areas must follow guidelines developed by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2331 (November 2009), LR 36:754 (April 2010).

**Chapter 6. Identifications of Acronyms**

**§601. Acronyms**

A. Listed below are the full identifications of acronyms used in this publication.

*BESE*—Board of Elementary and Secondary Education.

*BOR*—Board of Regents.

*CHEA*—Council for Higher Education.

*IEP*—Individualized Education Plan.

*K-3*—Kindergarten through 3rd grade.

*K-12*—Kindergarten through 12th grade.

*LDOE*—Louisiana Department of Education.

*LEAP 21*—Louisiana Educational Assessment Program for the 21st century.

*LSDAS*—Louisiana School and District Accountability System.

*NCATE*—National Council for the Accreditation of Teacher Education.

*P-12*—Pre-kindergarten through 12th grades.

*TEAC*—Teacher Education Accreditation Council.

*USDOE*—U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1736 (August 2002), amended LR 30:2459 (November 2004), LR 36:754 (April 2010).

Jeanette B. Vosburg  
Executive Director

1004#020

**RULE**

**Department of Health and Hospitals  
Board of Pharmacy**

Digital Imaging of Prescriptions (LAC 46:LIII.1123)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby amends the referenced Rule.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 11. Pharmacies**

**Subchapter B. Pharmacy Records**

**§1123. Records**

A. - D.9....

E. Digital Imaging of Prescriptions

1. In lieu of filing the actual original hard-copy prescription, a pharmacy may use an electronic imaging recordkeeping system, if:

a. the system is capable of capturing, storing, and reproducing the exact image of a prescription, including the reverse side of the prescription;

b. any notes of clarification of and alterations to a prescription shall identify the author and shall be directly associated with the electronic image of the prescription;

c. the prescription image and any associated notes of clarification to or alterations to a prescription are retained for a period not less than two years from the date the prescription is last dispensed;

d. policies and procedures for the use of an electronic imaging recordkeeping system are developed, implemented, reviewed, and available for board inspection; and

e. the prescription is not for a Schedule II controlled dangerous substance.

2. In this capacity the pharmacy may retain the hard copy prescriptions in order of date scanned in lieu of numerical order.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, LR 36:755 (April 2010).

Malcolm J. Broussard  
Executive Director

1004#005

**RULE**

**Department of Health and Hospitals  
Board of Pharmacy**

Pharmacy Interns (LAC 46:LIII.709)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby amends the referenced rule

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 7. Pharmacy Interns**

**§709. Scope of Practice**

A. Pharmacy interns may perform any duty of a pharmacist provided he is under the supervision of a pharmacist.

B. The ratio of pharmacy interns to pharmacists shall be 1:1. However, the ratio of pharmacy interns on rotation with a board-approved college of pharmacy to pharmacists shall be no more than 3:1.

C. A pharmacy intern may not:

1. present or identify himself as a pharmacist;

2. sign or initial any document which is required to be signed or initialed by a pharmacist unless a preceptor cosigns the document;

3. independently supervise pharmacy technicians; or  
4. administer immunizations unless properly credentialed as required by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 36:755 (April 2010).

Malcolm J Broussard  
Executive Director

1004#007

**RULE**

**Department of Health and Hospitals  
Board of Pharmacy**

Prescription Monitoring Program  
(LAC 46:LIII.2901)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby amends the referenced rule. To provide dispensers of the referenced drugs of concern adequate opportunity to revise their recordkeeping systems to facilitate the reporting of their eligible transactions, the effective date of this amendment shall be delayed until September 1, 2010.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 29. Prescription Monitoring Program**

**Subchapter A. General Operations**

**§2901. Definitions**

\*\*\*

*Drugs of Concern*—means drugs other than controlled substances which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers (whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation):

- a. butalbital when in combination with at least 325 milligrams of acetaminophen per dosage unit; and
- b. tramadol.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010.

Malcolm J Broussard  
Executive Director

1004#004

**RULE**

**Department of Health and Hospitals  
Board of Pharmacy**

**Prescription Transfers (LAC 46:LIII.2523)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives amends the referenced Rule

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 25. Prescriptions, Drugs, and Devices**

**Subchapter B. Prescriptions**

**§2523. Transfer of Prescription Information**

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

B. Pharmacies Using Common Electronic Files

1. Pharmacies using a common electronic file are not required to physically or electronically transfer prescriptions for information dispensing purposes between or among pharmacies participating in the same common prescription file; provided, however, any such common file must contain complete and adequate records of such prescriptions, and further, that a hard copy of each prescription transferred or accessed for purposes of refilling shall be generated and maintained at the pharmacy refilling the prescription or to which the prescription is transferred.

2. This accommodation shall comply with all state and federal laws and regulations regarding controlled dangerous substance prescription transfers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), LR 36:756 (April 2010).

Malcolm J Broussard  
Executive Director

1004#006

**RULE**

**Office of the Governor  
Boxing and Wrestling Commission**

**Boxing and Wrestling Standards  
(LAC 46:XI.Chapters 1, 3, and 7)**

The Louisiana State Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to adopt the following rules. The Louisiana State Boxing and Wrestling Commission, by this Rule, have changed Chapter 1. General Rules and Chapter 3. Professional Boxing to join with all sanctioning bodies that have now adopted the Association of Boxing Commissions (ABC) Referee Rules and Guidelines for boxing bouts concerning weight classes, weight differences, glove weights, accidental fouls. This Rule will correct an editing error that omitted a previously promulgated rule on Hepatitis B and C in §108. Medical Requirements; will express this commission's insurance requirement recommendations; and will instruct promoters on proof of medical information received by contestants and address medical suspensions for contestants who have suffered technical knock outs and knock outs. This Rule will also specify mandatory rest periods between bouts and this commission's duty to deny any contestant a license if contestant has previously been denied a license due to medical issues; add safety and inspection rules pursuant to cages and rings; require promoters to register events with recognized national registries seven days prior to events for review of disciplinary and medical suspensions; add language to appoint event coordinators if deemed necessary by the commission and the fees paid by the promoter thereof; and deletion of MTE amateur event rules deemed unnecessary and repetitive. An addition will also be made to the general rules requiring all boxing officials must be appointed and/or approved by this commission.

This Rule will also delete and consolidate redundant rules in Chapters 1, 3, and 7 as well as make minor changes to update these new rules to reflect the norms accepted by national associations regulating oversight of ring sports.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XI. Boxing and Wrestling**

**Chapter 1. General Rules**

**§108. Medical Requirements**

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV, Hepatitis B, and Hepatitis C and said test results are negative. Said test and certificate shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at the time of "weigh in."

B. A promoter shall provide insurance and pay all deductibles for contestants to cover medical, surgical, and hospital care with a minimum limit of \$10,000 for injuries sustained while participating in a contest and \$10,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. The commission recommends health and accidental death benefits of \$100,000. At least 10 calendar days before an event the promoter shall provide to the department for each event to be conducted, a certificate of insurance showing proper coverage. The promoter shall supply to those participating in the event the proper information for filing a medical claim. The promoter must keep records proving the proper insurance information was filed with contestant and/or medical facility; if promoter fails to provide proof that contestant and/or medical facility has received the insurance information, promoter will bear the burden of paying all costs associated with medical treatment of injured party.

**C. Medical Suspensions**

1. A contestant losing by way of a technical knockout (TKO) resulting from head blows may receive a medical suspension and may not participate in any ring sport activity for a minimum of 30 days. A contestant losing by way of a knock out (KO) may receive a medical suspension and may not participate in any ring sport activity for a minimum period of 60 days. At the discretion of the physician, longer suspension periods may be issued for either the TKO or KO.

2. A ringside physician may issue a medical suspension any time he/she believes it to be in the best interest for the safety of a contestant (i.e., high blood pressure at pre-fight physical). In any/all cases, the decision by the physician to issue or extend a suspension is final.

3. The commission may deny a contestant a license if their license to participate or compete has been denied, refused or disciplined for a medical condition by another state, tribal athletic commission, territory, federal agency or country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:000 (April 2010).

**§111. Event Coordinator**

A. The commission may appoint an event coordinator for any event the commission deems necessary at a fee not to exceed more than \$350 per event to be paid by the promoter of said event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 36:757 (April 2010).

**§123. Ringside Physicians**

A. - C. ...

D. Medical Suspensions (see §108.C.1-3, Medical Requirements)

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended

1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), re-promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), amended LR 36:757 (April 2010).

**§125. Event Approval**

A. - B. ...

1. Ring officials (judges, referees, etc.) for all ring sports under the jurisdiction of this commission will be appointed and/or approved by the commission.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2004 (August 2005), amended LR 36:757 (April 2010).

**§135. Safety**

A. ...

B. The commission will inspect all cages and rings prior to any events to ensure safety and stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), re-promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005), amended LR 36:000 (April 2010).

**Chapter 3. Professional Boxing**

**§305. Contestant**

A. - B.3. ...

C. Boxers may receive a mandatory seven day rest period after competing in an event. Day one of the mandatory rest period shall commence on the first day following the event.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:757 (April 2010).

**§307. Weight Classes, Weight Differences, and Glove Weights**

A. No contest may be scheduled and no contestants may engage in a boxing contest without the approval of the commission or the commission's representative if the difference in weight between contestants exceed the allowance shown in the following schedule or if a glove's weight is deemed to be insufficient in any manner.

Weight Class	Weight Difference Allowance	Glove Weight
Mini Flyweight (up to and including 105 pounds)	not more than 3 pounds	8 oz.
Light Flyweight (over 105 to 108 pounds)	not more than 3 pounds	8 oz.
Flyweight (over 108 to 112 pounds)	not more than 3 pounds	8 oz.
Super Flyweight (over 112 to 115 pounds)	not more than 3 pounds	8 oz.
Bantamweight (over 115 to 118 pounds)	not more than 3 pounds	8 oz.
Super Bantamweight (over 118 to 122 pounds)	not more than 4 pounds	8 oz.

Weight Class	Weight Difference Allowance	Glove Weight
Featherweight (over 122 to 126 pounds)	not more than 4 pounds	8 oz.
Super Featherweight (over 126 to 130 pounds)	not more than 4 pounds	8 oz.
Lightweight (over 130 to 135 pounds)	not more than 5 pounds	8 oz.
Super Lightweight (over 135 to 140 pounds)	not more than 5 pounds	8 oz.
Welterweight (over 140 to 147 pounds)	not more than 7 pounds	8 oz.
Super Welterweight (over 147 to 154 pounds)	not more than 7 pounds	10 oz.
Middleweight (over 154 to 160 pounds)	not more than 7 pounds	10 oz.
Super Middleweight (over 160 to 168 pounds)	not more than 7 pounds	10 oz.
Light Heavyweight (over 168 to 175 pounds)	not more than 7 pounds	10 oz.
Cruiserweight (over 175 to 200 pounds)	not more than 12 pounds	10 oz.
Heavyweight (over 200 pounds)	no limit	10 oz.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:757 (April 2010).

**§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling**

A. - I.1. ...

2. If the referee determines that the bout may not continue because of an injury suffered as the result of an accidental foul, the bout will result in a no decision if stopped before three completed rounds in bouts scheduled for four rounds. Rounds are complete when the bell rings signifying the end of a round. If a bout is scheduled for more than four rounds and an accidental foul occurs causing an injury severe enough for the referee to stop the bout immediately, the bout will result in a no decision if stopped before four completed rounds.

3. If an accidental foul renders a contestant unable to continue the bout after three completed rounds have occurred the bout will result in a technical decision awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

a. - b. ...

4. A fighter who is hit with an accidental low blow must continue after a reasonable amount of time but no more than five minutes or he/she will lose the fight.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2006 (August 2005), LR 36:758 (April 2010).

**Chapter 7. Mixed Technique Events**  
**§705. Mixed Technique Ring Rules**

A. - C.6. ...

7. There must not be any obstruction on any part of the fence surrounding the area in which the unarmed combatants are to be competing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1606 (August 2008), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:758 (April 2010).

**§725. Promoters**

A. Promoters will strictly adhere to rules and regulations as set forth in the general rules of this Title located in §§101 through 135, with special attention given to §108 (Medical Requirements) and §123 (Ringside Physicians).

B. Only the fighter, his trainer, and chief seconds shall enter the fenced off area around the ring or cage. Any other member of the contestants entourage who enters the fenced off area for any reason shall be ejected from the event.

C. Promoters must register shows with a recognized national registry seven days prior to any event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1606 (August 2008), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:758 (April 2010).

**§737. Mixed Technique Event Exhibition Rules**

A. MTE Exhibitions shall be conducted using §705 Professional Mixed Technique Rules above with the following modifications.

A.1. - B. ...

C. Acts Constituting Fouls. In addition to those listed under §719, Subsections A through C (Fouls):

1. - 1.a. ...

b. Repealed.

2. illegal techniques while on the ground:

a. in the event that the referee feels that the two fighters in the ring are mismatched to the point where the contest is not fair, then he shall immediately stop the fight at that point. Any matchmaker or promoter who arranged that fight shall be subject to immediate suspension of their license by the attending commission member as the commission deems the mismatching of amateur fighters to present an immediate danger to the public and the fighters;

b. the referee has as his number one concern the welfare of the fighters and shall conduct himself and the fight at all times with the understanding that the fighters are amateur fighters and are not to be subjected to undue punishment, which will require stoppages much sooner than those in a professional mixed technique event. Any referee who permits an amateur fighter to absorb undue punishment or grossly fails to stop a fight in a timely manner shall be subject to immediate suspension by the attending commission member as the commission deems that unnecessary injury of amateur fighters to present an immediate danger to the public and the fighters;

c. in the event that the commission member in attendance feels that the promoter has violated any of the



rules of this Section concerning mixed technique exhibitions or has submitted forms or paperwork to the commission that are fraudulent, or determines that the fighters were paid any gratuity, the commission member shall, at the close of the fight issue a summons to that promoter to appear before the commission at the next scheduled meeting to determine whether his license shall be suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1606 (August 2008), amended LR 35:53 (January 2009), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:758 (April 2010).

Alvin Topham  
Chairman

1004#018

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment Program; KIDMED Services; Claims Filing  
(LAC 50:XV.6705)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.6705 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

#### Chapter 67. KIDMED

#### §6705. Reimbursement

A. - B. ...

C. Timely Filing. KIDMED medical screening claims must be submitted within one year of the date of service in order to be processed for reimbursement to the provider. Claims not received within the timely filing deadline shall be denied.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:800 (April 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:759 (April 2010).

Alan Levine  
Secretary

1004#054

## RULE

### Department of Health and Hospitals Office of Aging and Adult Services Division of Adult Protective Services

Adult Protective Services  
(LAC 48:XIII.17101-17125)

The Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services proposes to amend LAC 48:XIII.17101-17125 under the Adult Protective Services Program as authorized by R.S. 15:1501-1511. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2008 Regular Session of the Louisiana Legislature, the Louisiana Revised Statute which authorizes the Adult Protective Services program (R.S. 14:403.2) was amended and portions of the statute were placed in R.S. 15:1501-1511. At the same time, the Office of Aging and Adult Services was created within the Department of Health and Hospitals and the Bureau of Protective Services was transferred into that office becoming the Division of Adult Protective Services within that office. This Rule is promulgated to adopt the changes created by the new legislation and the administrative changes within the department.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on the family has been considered. It is anticipated that this Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the investigation of allegations of abuse, neglect, exploitation or extortion of adults with disabilities living in family settings.

A regulatory flexibility analysis pursuant to R.S. 49:965.6 has been conducted. It has been determined that the promulgation of this Rule will not have an adverse impact on small business.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 13. Protective Services Agency

#### Chapter 171. Division of Adult Protective Services

#### §17101. Statement of Policy

A. The Department of Health and Hospitals is committed to preserving and protecting the rights of individuals to be free from abuse, neglect, exploitation, or extortion.

B. In pursuit of this commitment and in accordance with the provisions of R.S. 14:403.2, and R.S. 15:1501-15:1511 the Department of Health and Hospitals names the Office of Aging and Adult Services, Division of Adult Protective Services (APS) as the Protective Services Agency in order to provide protection to persons ages 18-59 with mental, physical, or developmental disabilities that substantially impair the person's ability to provide adequately for his/her own protection.

C. The primary function of Adult Protective Services is to investigate and/or assess reports of abuse, neglect, exploitation, or extortion consistent with the criteria contained in R.S. 14:403.2 and R.S. 15:1501-15:1511 to determine if the situation and condition of the subject of the report warrant further action and, if so, to prepare and implement a plan aimed at remedying or improving the situation. Adult Protective Services staff will provide protective services to each individual in need of protection until that person's situation has stabilized, that person is no longer at risk from the situation described in the report, or that person, having demonstrated the capacity to do so, refuses assistance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, R. S. 14:403.2 and R.S. 15:1501-15:1511.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:434 (April 1994), amended LR 27:312 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:759 (April 2010).

### **§17103. Goals and Objectives**

A. The primary goal of the OAAS Division of Adult Protective Services is to prevent, remedy, halt, or hinder abuse, neglect, exploitation, or extortion of individuals in need of services as defined in this regulation and consistent with the provisions of R.S. 14:403.2 and R.S. 15:1501-15:1511. In order to achieve this goal, Adult Protective Services shall pursue the following objectives:

1. to establish a system of mandatory reporting, intake, classification, timely investigation and response to allegations of abuse, neglect, exploitation, and extortion;

2. to provide protective services to the individual while assuring the maximum possible degree of self-determination and dignity;

3. in concert with other community service and health service providers, to arrange and facilitate the process toward developing individual and family capacities to promote safe and caring environments for individuals in need of protection;

4. to secure referral or admission to appropriate alternative living arrangements if all efforts to maintain the individual in his/her own home fail;

5. to assist individuals in need of protection to maintain the highest quality of life with the least possible restriction on the exercise of personal and civil rights;

6. to educate the general public, as well as private and public service agencies, regarding the Protective Services Agency and the requirements of R.S. 14:403.2.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:435 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:760 (April 2010).

### **§17105. Definitions**

A. For the purposes of this Chapter, the following definitions shall apply.

*Abandonment*—the desertion or willful forsaking of an adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

*Abuse*—the infliction of physical or mental injury on an adult by other parties, including but not limited to such

means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered. In determining whether an injury is sufficient to endanger the health, self-determination, or emotional well-being of the adult, the following criteria shall be considered:

a. with respect to physical injury, the injury must be sufficient to ordinarily require professional medical intervention beyond first-aid, or, the behavior in question must be sufficient to create a potential injury of that severity;

b. with respect to mental injury, the injury must be sufficient to ordinarily require mental health services of a clinical nature, or, the behavior in question must be sufficient to create a potential injury of that severity;

c. with respect to isolation, acts of isolation used in a manner where the individual is alone in a room/area from which he/she cannot leave, constitute behavior which has the potential to result in mental injury or unwarranted restriction of the adult's self-determination;

d. with respect to use of restraints, inappropriate and unauthorized use of any chemical and/or mechanical restraints, or any type of restraint which prevents the free movement of either the arms or legs and which immobilizes the individual, shall represent potential physical or mental injury and possible violation of an individual's self-determination. Chemical and/or mechanical restraints ordered by a physician and used in accordance with medical guidelines shall not constitute abuse.

*Adult*—any individual 18 years of age or older and under the age of 60, or an emancipated minor who, due to a physical, mental, or developmental disability is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect or exploitation.

*Adult Protective Services (APS)*—that division within the Department of Health and Hospitals' Office of Aging and Adult Services determined by the department as the Protective Services Agency for any individual between the ages of 18 and 59 years of age in need of adult protective services, pursuant to the provisions of R.S. 14:403.2 and R.S. 15:1501-15:1511, to provide protection to adults with disabilities as defined herein.

*Capacity to Consent*—the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment, or investigative findings, observation or medical or mental health evaluations.

*Caregiver*—any person or persons, either temporarily or permanently responsible for the care of a physically or mentally disabled adult. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, day-care personnel, adult foster home sponsors, providers of substitute family care, personnel of public and private institutions and facilities, adult congregate living facilities, and nursing homes which have voluntarily assumed the care of an adult as defined herein have assumed voluntary residence with an individual, or have assumed voluntary use or tutelage of an individual's assets, funds, or property, and specifically shall include city, parish, or state law enforcement agencies.

*Emancipated Minor*—a person under the age of 18 who administers his/her own affairs or who is relieved of the incapacities which normally attach to minority. Minors can be emancipated by notarial act, marriage, or judicial pronouncement.

*Exploitation*—the illegal or improper use or management of an adult's funds, assets, or property, or the use of an adult's power of attorney or guardianship for one's own profit or advantage.

*Extortion*—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, abuse, neglect, or official authority.

*Isolation*—includes:

a. intentional acts committed for the purpose of preventing, and which do serve to prevent, an adult from having contact with family, friends, or concerned persons. This shall not be construed to affect a legal restraining order;

b. intentional acts committed to prevent an adult from receiving his mail or telephone calls;

c. intentional acts of physical or chemical restraint of an adult committed for the purpose of preventing contact with visitors, family, friends, or other concerned persons;

d. intentional acts which restrict, place, or confine an adult in a restricted area for the purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons. However, medical isolation prescribed by a licensed physician caring for the adult shall not be included in this definition.

*Neglect*—the failure by the caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be neglected or abused.

*Protective Services*—those activities developed to assist individuals in need of protection. Protective services include but are not limited to: receiving and screening information on allegations of abuse, neglect, exploitation or extortion; conducting investigations and/or assessments of those allegations to determine if the situation and condition of the alleged victim warrants corrective or other action, preparing a plan using available community resources aimed at remedying or reducing the risk from abuse, neglect, exploitation or extortion, providing case management, as needed, to assure stabilization of the situation, and arranging of or making referrals for needed services and/or legal assistance to initiate any necessary remedial action.

*Regional Coordinating Council*—a regionally constituted committee composed of representatives of both public and private agencies providing services, with the objectives of identifying resources, increasing needed supportive services, avoiding duplication of effort, and assuring maximum community coordination.

*Self-Neglect*—the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical/surgical or other care necessary for his/her well-being. No individual who is provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be self-neglected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:435 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:760 (April 2010).

#### **§17107. Eligibility for Services**

A. The protection of this Rule extends to any adult as defined by law, 18-59 years of age or emancipated minors, living in unlicensed community settings, either independently or with the help of others, who is alleged to be abused, neglected, exploited, or extorted.

B. There is no financial eligibility requirement for services provided by Adult Protective Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:761 (April 2010).

#### **§17109. Reporting**

A.1. Any person having cause to believe that an individual's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, exploitation, or extortion shall report that knowledge or belief. These reports can be made to:

- a. Adult Protective Services; and/or,
- b. any local or state law enforcement agency.

2. Reports of abuse, neglect, exploitation and extortion shall be processed through the DHH Office of Aging and Adult Services, Division of Adult Protective Services' central intake system. Reports should be made/forwarded to: Adult Protective Services, P.O. Box 3518, Bin #11, Baton Rouge, LA 70821. The local telephone number is (225) 342-9057. The state-wide, toll-free telephone number is 1-800-898-4910.

B. Intake. Incident reports received by APS shall be screened to determine eligibility, and shall be assigned a priority status for investigation as described in §17121 of this Chapter. When reports are not accepted by APS, the reporter shall be advised why his/her report was rejected for investigation. Such reports will be referred to other social, medical, and law enforcement agencies, as deemed appropriate or required by law.

C. Priorities. In order to assure the timely delivery of protective services and to eliminate the potential danger of prolonging an abusive situation, a priority system for case response has been established. At the time a report of abuse is received in Adult Protective Services, the report will be prioritized and assigned for investigation. In making assignments, the following categories will be used.

##### **1. Priority One**

a. Priority One reports are those which allege the individual in need of protection is abused, neglected, exploited, or extorted, and has suffered or is at imminent risk of suffering serious harm or serious physical injury which, if untreated, may result in permanent physical damage or death.

b. Examples of Priority One reports include but are not limited to head injuries, spinal injuries, severe cuts, broken limbs, severe burns, and/or internal injuries and sexual abuse where there is danger of repeated abuse, situations where medical treatment, medications or nutrition

necessary to sustain the individual are not obtained or administered, as well as over-medication or unreasonable confinement.

c. Staff must respond to Priority One cases within 24 hours of receipt by Adult Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within this 24-hour period.

## 2. Priority Two

a. Priority Two reports allege the individual in need of protection is abused, neglected, exploited, or extorted, and as a result, is at risk of imminent serious physical injury, or harm.

b. Priority Two reports may include, but not be limited to, those situations in which there is failure to provide or obtain mental health and medical treatment which, if untreated, may cause serious harm to the individual. This includes self-abusive behavior and failure to treat physical ailments. It could also include inadequate attention to physical needs such as insufficient food, medicine, inadequate heat or excessive heat, unauthorized use, and/or exploitation of the victim's income or property.

c. Staff must respond to Priority Two cases within five working days of receipt by Adult Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within a five working day period, so long as the investigation of Priority One cases is not delayed.

## 3. Priority Three

a. Priority Three reports include all other allegations in which the individual in need of protection is alleged to be abused, neglected, exploited, or extorted which do not involve risk of imminent serious physical injury, or harm and pose no immediate threat of serious injury or harm.

b. Staff must respond to Priority Three cases within 10 working days of receipt by Adult Protective Services. For purpose of this Section, "case response" means that the investigator must attempt a face-to-face interview with the individual in need of protection within this 10 day working period, so long as the investigation of Priority One and Two cases are not delayed.

4. When APS is not staffed sufficiently to respond promptly to all reported cases, APS shall set priorities for case response and allocate staff resources to serve those adults with disabilities with the most immediate need for protection.

### D. Reporting Requirements

1. Allegations of known or suspected abuse, neglect, exploitation, or extortion shall include:

- a. the name and address of the alleged victim;
- b. the name and address of the person providing care to the alleged victim, if available; and
- c. the name of the person(s) suspected of abuse, neglect, extortion or exploitation, where different from item b above, if available; and
- d. other pertinent information.

2. Allegations of abuse, neglect, exploitation or extortion made by the alleged victim shall not be considered to be any less credible than allegations made by others and

shall be reported according to procedures established in this Chapter.

3. All allegations of physical or sexual abuse shall be reported to the chief law enforcement agency of the parish in which the incident is reported to have occurred. This report is to be made by the end of the business day subsequent to the day on which the report is received.

E. Failure to report, false reporting, or obstructing reports or investigations may be reported by APS to law enforcement or other regulatory agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:761 (April 2010).

### §17111. Investigation and Service Planning

A. Investigation. Reports accepted by Adult Protective Services for investigation shall be prioritized according to §17109 of this Rule. The subsequent investigation and assessment shall determine if the situation and condition of the adult requires further action and shall include determining the nature, extent, and cause of the abuse, neglect, exploitation, extortion, identifying the person or persons responsible for abuse, neglect, exploitation, or extortion, if known; if possible, interviewing the individual and visiting the individual's home or the location where the incident occurred. The investigation or assessment shall also include consultation with others having knowledge of the facts of the case. An Adult Protection worker shall have access to any records or documents including client-identifying information and medical, psychological, criminal or financial records necessary to the performance of the agency's duties without cost and without unnecessary delay. APS may petition a court of competent jurisdiction for such documents if access to them is refused. A report of the investigation shall be prepared, which contains an assessment of the individual's present condition/status.

B. Service Plan. The Protective Service worker will be responsible for developing a service plan based upon the case determination. If, at the end of the investigation, it is determined that the individual has been abused, neglected, exploited, and/or extorted by other parties, and that the problem cannot be remedied by extrajudicial means, Adult Protective Services shall refer the matter to the local district attorney's office. Evidence must be presented, together with an account of the protective services given or available to the individual, and a recommendation as to what services, if ordered, would eliminate the abuse/neglect.

C. Right to Refuse Services. Protective services may not be provided in cases of self-neglect to any individual who does not consent to such services or who, having consented, withdraws such consent. Nothing herein shall prohibit Adult Protective Services, the district attorney, the coroner, or the judge from petitioning for interdiction pursuant to Civil Code, Articles 389 through 399 or petitioning for an order for protective custody or for judicial commitment pursuant to R.S. 28.50 et seq., seeking an order for emergency protective services pursuant to R.S. 15:1511, or prohibit the district attorney from seeking an order for involuntary protective services pursuant to R.S.15:1508(B)(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:762 (April 2010).

#### **§17113. Legal Interventions**

A. The Adult Protective Services Agency may petition any court of competent jurisdiction for the following types of orders. Except in the case of emergency orders, the DHH Bureau of Legal Services shall be consulted for assistance in preparing petitions:

1. order to be granted access [R. S. 15:1507(C)];
2. order of protective services [R. S. 15:1507(F) and 15:508];
  - a. to provide mandatory counseling;
  - b. enjoin the accused to prevent continued abuse, neglect, exploitation or extortion;
  - c. require an medical or psychiatric/psychological of the client to determine least restrictive setting;
  - d. enjoin any party from interfering with the provision of protective services;
  - e. provide protective services, if the adult lacks capacity to consent and no other authorized person is available or willing.
3. Ex parte order for emergency protective services may be filed to prevent immediate harm, and may be requested orally or telephonically when there is not time to file in writing. Oral orders are to be followed with written petitions by close of business of the following day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010).

#### **§17115. Confidentiality**

A. Information contained in the case records of Adult Protective Services shall not be released without a written authorization from the involved individual or his/her legally authorized representative, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or the filing of false reports of abuse or neglect, or to social service agencies, licensed health care providers, and appropriate local or state agencies where indicated for the purpose of coordinating the provision of services or treatment necessary to reduce the risk to the adult from abuse, neglect, exploitation, or extortion and to state regulatory agencies for the purpose of enforcing federal or state laws and regulations relating to abuse, neglect, exploitation or extortion by persons compensated through state or federal funds.

1. Requests for copies of confidential information are to be forwarded to the APS Director, P.O. Box 3518, Bin #11, Baton Rouge, La 70821.

2. In instances where the adult is determined by Adult Protective Services as unable to give consent and there is no legally appointed guardian, records may be released in response to an order by a judge of a court of competent jurisdiction.

B. The identity of any person who in good faith makes a report of abuse, neglect, exploitation, or extortion shall be confidential and shall not be released without the written authorization of the person making the report, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or to the filing of false reports of abuse or neglect.

C. Prior to releasing any information, except information released to law enforcement agencies as provided herein, the adult protection agency shall edit the released information to protect the confidentiality of the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010).

#### **§17117. Immunity**

A. Under the provision of R.S. 15:1504.B, no cause of action shall exist against:

1. any person who, in good faith, makes a report, cooperates in an investigation by an agency, or participates in judicial proceedings;
2. any DHH Protective Services staff who, in good faith, conducts an investigation or makes an investigative judgment or disposition;
3. the persons listed in Items 1 and 2 of this Section shall have immunity from civil or criminal liability that otherwise might be imposed or incurred.

B. This immunity shall not extend to:

1. any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the individual;
2. any person who makes a report known to be false or with reckless disregard for the truth of the report;
3. any person charged with direct or constructive contempt of court, any act of perjury as defined in Subpart C of Part VII of the Louisiana Criminal Code or any offense affecting judicial functions and public records as defined in Subpart D of Part VII of the Louisiana Criminal Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010).

#### **§17119. The Department of Health and Hospitals' Protective Services System**

A. The department will deliver protective services to adults living in unlicensed community settings through the Office of Aging and Adult Services, Division of Adult Protective Services

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010).

**§17121. Responsibilities of Regional Coordinating Councils**

A. The Office of Aging and Adult Services, Division of Adult Protective Services shall convene and participate in Regional Coordinating Councils in each region of the state to coordinate community services in support of individuals in need of protection.

B. These councils will have as their objective to achieve maximum community coordination by efforts to:

1. identify resources, both in common to the agencies represented and available from outside resources; and
2. increase availability of needed services by maximizing existing resources and decreasing duplication of effort;
3. assure maximum community coordination of effort in providing necessary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:764 (April 2010).

**§17123. Training**

A. To encourage prompt reporting of suspected abuse, neglect, exploitation, or extortion, Adult Protective Services staff shall provide for and/or participate in activities to inform the general public and, in particular, targeted professionals and service providers about the Adult Protective Service Program.

B. The adult protection agency shall also be responsible for ongoing inservice training for its staff which assures adequate performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:764 (April 2010).

**§17125. Dissemination**

A. A copy of this Rule shall be made available to anyone, including individuals in need of protection, upon request.

B. Copies of this Rule shall be disseminated to state and local agencies which serve populations of persons with mental, physical, or emotional disabilities (including but not limited to community services offices of the Office for Citizens with Developmental disabilities, Office of Mental Health, Office of Addictive Disorders, Office of Public Health and state and local law enforcement agencies, advocacy agencies, nursing homes, hospitals, private care agencies, and other related service agencies).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:764 (April 2010).

Alan Levine  
Secretary

1004#055

**RULE**

**Department of Public Safety and Corrections  
Board of Private Investigator Examiners**

**Licensing of Journeyman (LAC 46:LVII.510)**

The Board of Private Investigator Examiners, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and relative to its authority to adopt, amend or repeal rules provided by R.S. 37:3505 has revised Chapter 5 of LAC 46:LVII.

The Board of Private Investigator Examiners hereby adopts LAC 46:LVII.510, Licensing of Journeyman. This text has been added in response to the private investigator journeyman license, which the Board of Private Investigator Examiners is authorized to issue to qualified applicants, pursuant to the enactment of R.S. 37:3507.2(4).

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARD**

**Part LVII. Private Investigator Examiners**

**Chapter 5. Application, Licensing, Training,  
Registration and Fees**

**§510. Licensing of Journeyman**

**A. Definition**

*Journeyman License*—an individual license authorizing the individual to provide contract private investigator services to any agency licensed by the Board of Private Investigator Examiners.

B. Journeyman Qualifications. A journeyman applicant shall meet the same qualifications as an individual license holder and shall have successfully completed the 40 hour basic private investigators course and subsequent examination.

C. Journeyman License Standards. A journeyman license holder shall maintain a job log concerning each investigation they perform. The job log shall contain the following items:

1. name of managing agency;
2. reference;
3. dates investigations were performed;
4. total number of hours worked during the investigation.

D. Journeyman License Application. A journeyman license applicant shall be required to submit an affidavit acknowledging and accepting the journeyman's license limitations. Those limitations include the following.

1. A journeyman license holder shall only provide investigative services to agencies licensed under the Board of Private Investigator Examiners.

2. A journeyman license holder shall not provide direct investigative services to the general public, private businesses or government agencies.

E. Journeyman Management. Each agency employing the services of a journeyman shall supervise the activities of the journeyman in the same manner they would an apprentice or individual license holder. Each agency employing the services of a journeyman shall also maintain and provide upon request of the journeyman or board, the total number of hours a journeyman worked each year.

F. Agency Fees. Fees for a journeyman license shall be equivalent to the fees for an agency license.

G. Journeyman Identification Card. The identification card of a journeyman shall have the words "Not an Agency" printed on the face of the card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505 and R.S. 37:3507.2(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 36:764 (April 2010).

Pat Englade  
Executive Director

1004#019

**RULE**

**Department of Revenue  
Policy Services Division**

**Ad Valorem Taxation**

(LAC 61:V.101, 303, 304, 703, 901, 907, 1103, 1305, 1307, 1503, 2503, 3101, 3103, 3105, 3106, and 3107)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2010 (2011 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2010. Cost indexes required to finalize these assessment tables are not available to this office until late October 2009.

**Title 61**

**REVENUE AND TAXATION**

**Part V. Ad Valorem Taxation**

**Chapter 1. Constitutional and Statutory Guides to  
Property Taxation**

**§101. Constitutional Principles for Property Taxation**

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d....

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$64,410 for tax year 2010 (2011 Orleans Parish).

For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010).

**Chapter 3. Real and Personal Property**

**§303. Real Property**

A. - C.1. ...

2. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with their Rulemaking Session.

a. It is recommended that the capitalization rate for affordable rental housing properties categorized as Second-Tier be 7.5 percent, increased by the effective tax rate, and it is recommended that the capitalization rate for affordable rental housing properties categorized as Third-Tier be 8.5%, increased by the effective tax rate. The Tiers are as established and defined by the Real Estate Research Corporation for Apartment Investment Properties. These capitalization rates shall remain in effect until modified by the Louisiana Tax Commission in accordance with its Rulemaking authority.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010).

**§304. Electronic Change Order Specifications,  
Property Classifications Standards and  
Electronic Tax Roll Export Specifications**

A. ....

\* \* \*

B. Property Classifications Standards

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
Real Estate				
10	Agricultural Lands Class I	1000	Agricultural Lands Class I (Use Value)	Agricultural Land-Class I containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1050	Agricultural Lands Class I Less Than 3 Acres (Use Value)	Agricultural Land-Class I containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
11	Agricultural Lands Class II	1100	Agricultural Lands Class II (Use Value)	Agricultural Land-Class II containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1150	Agricultural Lands Class II Less Than 3 Acres (Use Value)	Agricultural Land-Class II containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
12	Agricultural Lands Class III	1200	Agricultural Lands Class III (Use Value)	Agricultural Land-Class III containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1250	Agricultural Lands Class III Less Than 3 Acres (Use Value)	Agricultural Land-Class III containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
		1265	Agricultural Lands Class IIIW (Use Value)	Agricultural Land – Class III (65%) Class IV (35%) containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
13	Agricultural Lands Class IV	1300	Agricultural Lands Class IV (Use Value)	Agricultural Land-Class IV containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
		1350	Agricultural Lands Class IV Less Than 3 Acres (Use Value)	Agricultural Land-Class IV containing less than 3 acres in area using the first four classifications of the U.S. Soil Conservation Service.
15	Timberlands Class I	1500	Timberlands Class I (Use Value)	Timberland-Class I containing 3 acres or more in area capable of producing more than 120 cubic feet of timber per acre per annum.
		1550	Timberlands Class I Less Than 3 Acres (Use Value)	Timberland-Class I containing less than 3 acres in area capable of producing more than 120 cubic feet of timber per acre per annum.
16	Timberlands Class II	1600	Timberlands Class II (Use Value)	Timberland-Class II containing 3 acres or more in area capable of producing more than 85 but less than 120 cubic feet of timber per acre per annum.
		1650	Timberlands Class II Less Than 3 Acres (Use Value)	Timberland-Class II containing less than 3 acres in area capable of producing more than 85 but less than 120 cubic feet of timber per acre per annum.
17	Timberlands Class III	1700	Timberlands Class III (Use Value)	Timberland-Class III containing 3 acres or more in area capable of producing less than 85 cubic feet of timber per acre per annum.
		1750	Timberlands Class III Less Than 3 Acres (Use Value)	Timberland-Class III containing less than 3 acres in area capable of producing less than 85 cubic feet of timber per acre per annum.
18	Timberlands Class IV	1800	Timberlands Class IV (Use Value)	Timberland-Class IV containing 3 acres or more in area capable of producing less than 85 cubic feet of timber per acre per annum and which is subject to periodic overflow from natural or artificial water courses, and which is otherwise consider to be swampland.
		1850	Timberlands Class IV Less Than 3 Acres (Use Value)	Timberland-Class IV containing less than 3 acres in area capable of producing less than 85 cubic feet of timber per acre per annum and which is subject to periodic overflow from natural or artificial water courses, and which is otherwise consider to be swampland.
20	Fresh Water Marsh	2000	Fresh Water Marsh (Use Value)	Fresh Water Marsh containing 3 acres or more in area being wetland not devoted to agricultural, horticultural or timber purposes.
		2050	Fresh Water Marsh Less Than 3 Acres (Use Value)	Fresh Water Marsh containing less than 3 acres in area being wetland not devoted to agricultural, horticultural or timber purposes.
22	Brackish Water Marsh	2200	Brackish Water Marsh (Use Value)	Brackish Water Marsh containing 3 acres or more in area being wetland not devoted to agricultural, horticultural or timber purposes.
		2250	Brackish Water Marsh Less Than 3 Acres (Use Value)	Brackish Water Marsh containing less than 3 acres in area being wetland not devoted to agricultural, horticultural or timber purposes.



Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
24	Salt Water Marsh	2400	Salt Water Marsh (Use Value)	Salt Water Marsh containing 3 acres or more in area being wetland not devoted to agricultural, horticultural or timber purposes.
		2450	Salt Water Marsh Less Than 3 Acres (Use Value)	Salt Water Marsh containing less than 3 acres in area being wetland not devoted to agricultural, horticultural or timber purposes.
30	Other Acreage (Greater than 3 Acres)	3000	Agricultural Acreage (Market Value)	Agricultural Land 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3010	Timber Acreage (Market Value)	Timber Land 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3020	Marsh Acreage (Market Value)	Marsh Land 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3022	Lake Servitude Lands (Market Value)	Lake servitude land containing 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3024	Batture Land (Market Value)	Batture land containing 3 acres or more in area valued at market level since a use value classification has not been filed with the Assessor's Office.
		3030	Commercial Acreage (Market Value)	Commercial land 3 acres or more in area designated for office and retail use.
		3040	Industrial Acreage (Market Value)	Industrial land 3 acres or more in area designated for industrial use.
		3050	Institutional Acreage (Market Value)	Institutional land 3 acres or more in area designated for public buildings, schools, churches and properties that have unique uses.
		3060	Residential Acreage (Market Value)	Residential land 3 acres or more in area used for residential permanent improvements such as single-family residences, townhouses and apartments.
		3070	Trailer Parks (Market Value)	Residential land 3 acres or more in size used for trailer parks.
32	Other Acreage (Greater than 1 Acre but less than 3 Acres)	3200	Agricultural Acreage (Market Value)	Agricultural land more than 1 acre but less than 3 acres in area valued as market value since use value form has not been filed with the Assessor's Office.
		3210	Timber Acreage (Market Value)	Timber land more than 1 acre but less than 3 acres in area valued as market value since use value form has not been filed with the Assessor's Office.
		3220	Marsh Acreage (Market Value)	Marsh lands more than 1 acre but less than 3 acres in area valued at market value since use value form has not been filed with the Assessor's Office.
		3222	Lake Servitude Lands (Market Value)	Lake servitude land containing more than 1 acre but less than 3 acres in area valued at market value since use value form has not been filed with the Assessor's Office.
		3224	Batture Lands (Market Value)	Batture land containing more than 1 acre but less than 3 acres in area valued at market value since use value form has not been filed with the Assessor's Office.
		3230	Commercial Acreage (Market Value)	Commercial land more than 1 acre but less than 3 acres in area designated for office and retail use.
		3240	Industrial Acreage (Market Value)	Industrial land more than 1 acre but less than 3 acres in area designated for industrial use.
		3250	Institutional Acreage (Market Value)	Institutional land more than 1 acre but less than 3 acres in area designated for public buildings, schools, churches and properties that have unique uses.
		3260	Residential Acreage (Market Value)	Residential land more than 1 acre but less than 3 acres in area used for residential permanent improvements such as single-family residences, townhouses and apartments.
		3270	Trailer Parks (Market Value)	Residential land more than 1 acre but less than 3 acres in area used for residential trailer parks.
34	Subdivision Lots	3400	Residential Subdivision Lot	Residential subdivision lots that have recorded plats.
	(As Per Recorded Subdivision Plats)	3410	Trailer Park	Trailer park lots that have recorded plats.
		3420	Commercial Subdivision Lot	Commercial subdivision lots that have recorded plats.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
		3430	Industrial Subdivision Lot	Industrial subdivision or business park lots that have recorded plats.
		3440	Institutional Subdivision Lot	Institutional subdivision or campus lots that have recorded plats.
36	Other Lots	3600	Residential Non-Subdivision Lot	Residential non-subdivision lot or parcel not having recorded plats.
	(Consisting of 1 Acre or Less)	3610	Trailer Park	Trailer park non-subdivision lot or parcel not having recorded plats.
		3620	Commercial Non-Subdivision Lot	Commercial acreage less than 3 acres in size (market value).
		3630	Industrial Non-Subdivision Lot	Industrial acreage less than 3 acres in size (market value).
		3640	Institutional Non-Subdivision Lot	Institutional acreage less than 3 acres in size used by government, schools or churches (market value).
37	No Land Value	3700	No Land Value (Leased Property)	Land leased by tenant for placement of manufactured homes (mobile home/trailer) or leasehold improvements. (this land class could be used for condominiums where land value is part of the improvement value.)
40	Improvements: Residential	4000	Single Family Residence	Single family residence (free standing structure or improvement) including decks, patios, pavement, swimming pools, hot tubs (jacuzzi), gazebos, etc.
		4010	Manufactured Housing	Manufactured housing (mobile homes/trailers).
		4020	Townhouse/Duplexes	Includes townhouse or duplexes. (includes stand alone triplexes and fourplexes.)
		4030	Urban Row Houses	Includes urban row houses.
		4040	Multi-Family (Apartments)	Includes dormitories; high-rise apartments; homes for the elderly; group care homes; fraternity/sorority houses; rooming and boarding houses; bed & breakfast inns; and high-rise row houses. (includes fourplexes or larger units consisting of multiple buildings.)
		4050	Clubhouses	Includes clubhouses used by homeowner associations or apartment complexes.
		4060	Resort Cottages and Cabins	Includes resorts cottages and cabins being used as a residential rental unit.
		4070	Log and Dome Houses	Includes log and dome houses.
		4080	Tropical Housing (Camps)	Includes tropical housing; camps; and boathouses.
		4090	Old Residences (Historical)	Includes older residences that have classified as antique or historical in nature.
		4095	Storage, Garages and Workshops	Includes residential storage facilities, workshops, barns, stables, detached garages, greenhouses and apartment complex laundromats.
		4099	Unidentified Residential Improvements	Includes those residential improvements yet to be classified by assessor's staff.
45	Improvements: Commercial or Industrial	4500	Clubs and Hotels	Includes hotels; city clubs; mortuaries; clubhouse; senior centers; country clubs; recreational enclosures; and health clubs.
		4510	Motels	Includes motels (extended-stay motels); lodges; bath houses; and guest cottages.
		4520	Stores and Commercial Buildings	Includes restaurants table service, dining atriums and cafeterias (truck stops, fast food and playrooms); markets; drugstores; discount stores; retail stores; department stores; barber shop and beauty salons; laundromats; laundry and dry cleaning stores; shopping centers; bars/taverns and cocktail lounges; convenience markets and mini-marts; dairy sales building; department and mall anchor stores; florist shops; roadside and farmers' markets; neighborhood (community, regional, discount, mixed retail with apartments & offices); shopping center shells; snack bars; warehouse stores; discount, food and showroom.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
		4530	Garages, Industrials, Lofts and Warehouses	Includes industrial buildings; laboratories; lofts; computer centers; passenger terminals; broadcasting facilities (radio/tv stations); armories; post offices; warehouses; cold storage facilities; creameries; transit warehouses; mini-warehouses; shipping docks; loading docks; hangers; maintenance, storage and t-hangers; complete auto dealerships; showrooms; garages: service and repair, storage (municipal and service sheds) industrials, engineering/r&d (laboratories, manufacturing, light/heavy); flex-mall buildings; mini-lube garages; parking structures; underground parking garages; misc. buildings: bakery, bottle & cannery plants; control towers, laundry, boiler, recycling, sound stage and telephone.
		4540	Offices, Medical and Public Buildings	Includes office buildings; atriums/ vestibules; mechanical penthouses; parking level floors; banks: branch, central office and mini-banks; medical office buildings and dental clinics; dispensaries; general hospitals, outpatient and surgical centers; convalescent hospitals; veterinary hospitals; kennels; government buildings, community service, mixed-use facilities; fire stations: staffed and volunteer; jails, correctional facilities and police stations; offices and office building shells; and public libraries.
		4550	Churches, Theaters and Auditoriums	Includes churches, sanctuaries, churches with sunday schools; church fellowship halls, classrooms and foyers/narthexes; fraternal buildings; theaters: cinemas and live stage; auditoriums; casinos; museums; convention centers; arcade buildings; visitor centers; skating rinks; bowling centers; fitness centers; community recreation centers; indoor tennis clubs; handball/racquetball and pavilions.
45	Improvements: Commercial or Industrial	4560	Sheds and Farm Buildings	Includes utility buildings; equipment buildings; golf cart buildings; boat storage buildings and sheds; shed office structures; materials storage buildings; bulk oil storage buildings; toolsheds; prefabricated sheds; lumber storage, vertical buildings; and horizontal sheds; potato storage buildings; fruit packing barns; bulk fertilizer storage; bag fertilizer storage; seed warehouses; cotton gin buildings; dehydrator buildings; dairies; milk houses; barns; free stall barns; barn lofts; hog barns and sheds; sheep barns and sheds; tobacco barns; stables; arenas; poultry houses; greenhouses; labor dormitories; transient labor cabins; corn cribs; farm silos; grain handling systems; grain elevators; livestock, hay and sun shelters; enclosed and screened cages; poultry floor operation, breeder, broiler and turkey barns; sheds, cattle, loafing and feeding; environmental storages; controlled atmosphere buildings; shop buildings and sheds.
		4570	Schools and Classrooms	Elementary, middle, high, alternative, vocational schools; day care centers; colleges and universities; classroom buildings; special education or learning classrooms; laboratory classrooms; lecture classrooms; administrative buildings; academic libraries; fine arts buildings; manual arts and college technical trades buildings; multipurpose buildings; bookstores; gymnasiums; physical education buildings; fieldhouses; natatoriums; shower buildings; restroom buildings; commercial or institutional greenhouses; and maintenance buildings.
		4590	Old Commercial Buildings (Historical)	Includes older residences that have classified as antique or historical in nature.
		4599	Unidentified Commercial Improvements	Commercial Improvements yet to be classified by Assessor's Staff

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
<b>Personal Property</b>				
50	Inventories and Merchandise	5000	Inventories and Merchandise	Inventories of items that are tangible personal property which are held for sale, process of production, consumed in the production of the goods or services to be available for sale or are utilized in marketing or distribution activities.
51	Machinery and Equipment	5100	Machinery and Equipment	Machinery and equipment
52	Business Furniture and Fixtures	5200	Business Furniture and Fixtures	Office furniture and equipment.
53	Miscellaneous Personal Property	5300	Computer Hardware/Software	Includes computer hardware, software, computer network equipment, printers, etc.
		5310	Electronics	Includes electronic typewriters, copy machines, postage machines, etc.
		5320	Leasehold Improvements	Includes all leasehold improvements being expensed by tenant of rental property.
		5330	Telecommunications Equipment	Includes all telephone systems, telephone switching equipment not public service.
		5340	Cell Towers	Includes cell towers and related equipment not part of public service.
		5350	Video Poker Machines	Includes video poker machines, slot machines and other gambling related equipment.
		5390	Other	Non-classified miscellaneous personal property not falling into any of the existing defined miscellaneous personal property classes.
		5399	Non-Reporting of LAT	Assessor's adjustment for non-reporting of LAT Forms.
54	Credits (Insurance and Finance Companies)	5400	Credits	Loan and finance companies personal property.
55	Leased Equipment	5500	Leased Equipment	Lease equipment such as copiers, postage machines, computers, phone systems, heavy equipment, etc.
56	Pipelines (Other than Public Service)	5600	Lease Lines	Pipelines - leased
		5610	Gathering Lines	Pipelines - gathering lines
		5620	Pipelines other than Public Service	Pipelines other than public service pipelines.
57	Oil and Gas Surface Equipment (Units not to Exceed Total Number of Wells)	5700	Oil and Gas Surface Equipment	Oil and gas surface equipment.
60	Watercraft	6000	Watercraft	Watercraft, other than those employed in interstate commerce, is subject to valuation and assessment by parish assessor.
62	Aircraft	6200	Private Aircraft	Privately held aircraft.
		6210	Commercial Aircraft	Commercial aircraft other than public service airlines aircraft.
64	Financial Institutions	6400	Financial Institutions	Financial institutions shares of stock of all banks, banking companies, firms, associations or corporations in the banking business.
66	Drilling Rigs	6600	Drilling Rigs	Drilling rigs and related equipment.
68	Oil and Gas Wells	6800	Oil Wells	Oil wells, abandon wells, orphan wells, plug wells
		6801	Future Utility	Future utility
		6802	Non Future Utility	Non future utility
		6810	Gas Wells	Gas wells.
		6811	Future	Future
		6812	Non Future	Non future
		6820	Injection Wells, Service Wells	Injection wells, service wells, saltwater disposal, brine wells, water wells
		6830	Commercial Disposal Wells	Commercial disposal wells
<b>Public Service</b>				
80	Airline Companies	8000	Aircraft	Commercial Airline Companies' aircraft assessed by the Louisiana Tax Commission.
		8010	Ground Equipment	Commercial Airline Companies' ground equipment assessed by the Louisiana Tax Commission.
81	Barge Line Companies	8100	Barge Lines	Barge Line Companies' assets assessed by the Louisiana Tax Commission.
82	Electric, Gas and Water Companies	8200	Lines	Electric, Gas and Water Companies' lines assessed by the Louisiana Tax Commission.
		8202	Utility Coop - Lines	Coop
		8206	Utility Noncoop - Lines	Noncoop
		8210	Land	Electric, Gas and Water Companies' land assessed by the Louisiana Tax Commission.

Class Code	Class Description (Tc-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
		8220	Improvements	Electric, Gas and Water Companies' improvements assessed by the Louisiana Tax Commission.
		8230	Machinery & Equipment	Electric, Gas and Water Companies' machinery and equipment assessed by the Louisiana Tax Commission.
		8240	Construction Work In Progress	Electric, Gas and Water Companies' construction work in progress assessed by the Louisiana Tax Commission.
		8250	Other	Electric, Gas and Water Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
83	Pipeline Companies	8300	Lines	Pipeline Companies' pipelines assessed by the Louisiana Tax Commission.
		8310	Oil and Gas Storage	Pipeline Companies' oil and gas storage tanks assessed by the Louisiana Tax Commission.
		8320	Machinery and Equipment	Pipeline Companies' machinery and equipment assessed by the Louisiana Tax Commission.
		8330	Land	Pipeline Companies' land assessed by the Louisiana Tax Commission.
		8340	Right of Ways	Pipeline Companies' right of ways assessed by the Louisiana Tax Commission.
		8350	Open Access	Pipeline Companies' open access assessed by the Louisiana Tax Commission.
		8360	Improvements	Pipeline Companies' improvements assessed by the Louisiana Tax Commission.
		8370	Construction Work in Progress	Pipeline Companies' construction work in progress assessed by the Louisiana Tax Commission.
		8380	Other	Pipeline Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
84	Private Car Line Companies	8400	Private Car Lines	Private Car Line Company assets assessed by the Louisiana Tax Commission.
85	Railroad Companies	8500	Main Lines	Railroad Companies' main lines assessed by the Louisiana Tax Commission.
		8510	Second Lines	Railroad Companies' secondary lines assessed by the Louisiana Tax Commission.
		8520	Side Lines	Railroad Companies' side lines assessed by the Louisiana Tax Commission.
		8530	Land	Railroad Companies' land assessed by the Louisiana Tax Commission.
		8540	Improvements	Railroad Companies' improvements assessed by the Louisiana Tax Commission.
		8550	Other	Railroad Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.
		8560	Rolling Stock	Railroad Companies' rolling stock assessed by the Louisiana Tax Commission.
86	Telephone Companies	8600	Lines	Telephone Companies' lines assessed by the Louisiana Tax Commission.
		8610	Land	Telephone Companies' land assessed by the Louisiana Tax Commission.
		8620	Improvements	Telephone Companies' improvements assessed by the Louisiana Tax Commission.
		8630	Machinery and Equipment	Telephone Companies' machinery and equipment assessed by the Louisiana Tax Commission.
		8640	Construction Work in Progress	Telephone Companies' construction work in progress assessed by the Louisiana Tax Commission.
		8650	Other	Telephone Companies' other miscellaneous equipment assessed by the Louisiana Tax Commission.

C. Electronic Tax Roll Export Specifications

NOTES: Programmer must allow for optional fields not used. The tilde (~) will be used as the delimiter for character data and the comma (,) will be used as the field delimiter. (See examples) It is not necessary to use spaces between commas that contain no data. Programmer must allow for optional fields not used. Each record is a line in the ASCII text file and

must have a carriage return and line feed at the end of each line. ASCII text file names must adhere to naming convention listed behind file information title.

Please Note: Please contact the Louisiana Tax Commission for the latest specifications before creating the files listed below.

\* \* \*

Assessment Information (Assmt.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
Tax_year	Numeric	4	Yes	Tax year submitting (format: 1999, 2000,2001,2002,2003,2004, etc.)
FIPS_code	Numeric	5	Yes	Parish identification number. (See FIPS table.)
Assessment_no	Character	20	Yes	Assessment number.
Parcel_no	Character	20	Yes	Parcel Identification Number (PIN). (If your system currently does not support PINs use the assessment number as the PIN.)
Assessment_type	Character	2	Yes	"RE" = Real Estate, "PP" = Personal Property, "PS" = Public Service
Assessment_status	Character	2	Yes	"AC" = Active, "AJ" = Adjudicated, "EX" = Exempt/Tax Free
Homestead_exempt	Numeric	1	Yes	0 = None (Default), 1 = Homestead Exemption, 2 = Over 65 Freeze, 3 = Disabled, 4 = Disabled Vet and 5 = Widow of POW/MIA
homestead_percent	Numeric	6.2	Yes	Homestead Exemption percentage to be applied to assessment. (Format: 100.00 (Default) = 100%)
Restoration_tax_expmt	Character	1	Yes	Restoration Tax Abatements on historical property. "N" = No (Default), "Y" = Yes
Tax_acct	Numeric	6	No	Tax account or tax bill number for grouping assessments together.
Place_FIPS	Numeric	5	Yes	FIPS Place Code of Ward or Municipality. (See FIPS Table)
Taxpayer_id	Numeric	10	No	Taxpayer's identification number. (Social Security or Federal ID numbers.)
Taxpayer_name	Character	50	Yes	Taxpayer's name.
Contact_name	Character	50	No	Contact's name for company taxpayers or for in care of (C/O) contacts.
Taxpayer_addr1	Character	40	Yes	Taxpayer's address line 1.
Taxpayer_addr2	Character	40	Yes	Taxpayer's address line 2.
Taxpayer_addr3	Character	40	No	Taxpayer's address line 3.
Transfer_date	Character	10	No	Date of purchase. (Sample: -01/01/1999-)

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010).

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2009	1.013	1	94	.95
2008	1.042	2	87	.91
2007	1.083	3	80	.87
2006	1.142	4	73	.83
2005	1.195	5	66	.79
2004	1.285	6	58	.75
2003	1.330	7	50	.67
2002	1.352	8	43	.58
2001	1.360	9	36	.49
2000	1.372	10	29	.40
1999	1.396	11	24	.34
1998	1.401	12	22	.31
1997	1.413	13	20	.28

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2009	1.013	1	97	.98
2008	1.042	2	93	.97
2007	1.083	3	90	.97
2006	1.142	4	86	.96
2005	1.195	5	82	.95
2004	1.285	6	78	.94
2003	1.330	7	74	.93
2002	1.352	8	70	.92
2001	1.360	9	65	.88
2000	1.372	10	60	.82
1999	1.396	11	55	.77
1998	1.401	12	50	.70
1997	1.413	13	45	.64
1996	1.436	14	40	.57
1995	1.457	15	35	.51
1994	1.510	16	31	.47
1993	1.552	17	27	.42
1992	1.582	18	24	.38
1991	1.602	19	22	.35
1990	1.634	20	21	.34
1989	1.678	21	20	.34

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010).

**Chapter 9. Oil and Gas Properties**

**§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties**

A. ...

B. The Well

1. The well includes all of the equipment and any other taxable property located below the wellhead, as well as the casinghead, wellhead and/or Xmas tree.

2. Each string of casing runs from the surface down. There will always be at least two sizes of casing; the surface pipe which seals off fresh water zones, and the production string. The larger surface pipe usually extends only a few feet, depending on the depth of usable underground water, while the small production string extends to the depth of the oil producing formations. However, in some wells, and in particular the deeper wells, it may be necessary to set more than two strings of casing, each of which extends to a specific depth.

3. Each well is normally assessed in accordance with guidelines establishing "fair market value".

C. - G. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:495 (March 2009). LR 36:773 (April 2010).

**§907. Valuation of Oil, Gas, and Other Wells**

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with R.S. 47:1957, the assessor may request additional documentation.

Instructions for Use of Tables 907.A-1,  
907.A-2 and 907.A-3  
and

Procedure for Arriving at Assessed Value

1. Determine if well is located in Region 1 by reference to Table 907.B.1. See note for Region 2 or Region 3 (offshore state waters) wells.

2. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.

3. Use Oil cost-new to assess all active service wells for region where located.

4. See explanations in Section 901.E regarding the assessment of multiple completion wells.

5. For wells recompleted, use new perforation depth to determine fair market value.

6. Adjustments for Allowance of Economic Obsolescence

a. All wells producing 10 bbls oil or 100 mcf gas, or less, per day, as well as, all active service wells (i.e. injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with proper documentation to claim this reduction. Once the 40 percent reduction has been applied and calculated, an additional 60 percent reduction shall be applied for any well producing 1 bbl of oil or 10 mcf of gas or less per day.

b. All inactive (shut-in) wells shall be allowed a 90 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

7. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	33.82	118.33	5.07	17.75
1,250-2,499 ft.	30.52	87.01	4.58	13.05
2,500-3,749 ft.	23.99	57.62	3.60	8.64
3,750-4,999 ft.	33.17	57.42	4.98	8.61
5,000-7,499 ft.	39.02	56.04	5.85	8.41
7,500-9,999 ft.	85.54	75.54	12.83	11.33
10,000-12,499 ft.	249.46	91.64	37.42	13.75
12,500-14,999 ft.	N/A	138.37	N/A	20.76
15,000-Deeper ft.	N/A	157.78	N/A	23.67

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	259.95	117.55	38.99	17.63
1,250-2,499 ft.	89.76	195.39	13.46	29.31
2,500-3,749 ft.	87.65	155.78	13.15	23.37
3,750-4,999 ft.	77.27	124.62	11.59	18.69
5,000-7,499 ft.	105.56	141.55	15.83	21.23
7,500-9,999 ft.	144.00	148.20	21.60	22.23
10,000-12,499 ft.	196.37	193.73	29.46	29.06
12,500-14,999 ft.	257.59	250.64	38.64	37.60
15,000-17,499 ft.	417.23	335.56	62.58	50.33
17,500-19,999 ft.	509.44	475.31	76.42	71.30
20,000-Deeper ft.	272.03	713.60	40.80	107.04

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

serial number is unknown, use spud date to determine appropriate percent good.

Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1303.05	952.13	195.46	142.82
2,500 -3,749 ft.	670.04	731.74	100.51	109.76
3,750 -4,999 ft.	956.42	670.98	143.46	100.65
5,000 -7,499 ft.	475.95	621.47	71.39	93.22
7,500 -9,999 ft.	603.43	588.09	90.51	88.21
10,000 -12,499 ft.	683.13	596.13	102.47	89.42
12,500 -14,999 ft.	594.13	580.13	89.12	87.02
15,000 -17,499 ft.	409.51	601.95	61.43	90.29
17,500 - 19,999 ft.	N/A	575.48	N/A	86.32
20,000 - Deeper ft.	N/A	904.60	N/A	135.69

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Year	Beginning Serial Number	Ending Serial Number	17 Year Life Percent Good
2009	239277	Higher	94
2008	236927	239276	88
2007	234780	236926	82
2006	232639	234779	76
2005	230643	232638	71
2004	229010	230642	65
2003	227742	229009	59
2002	226717	227741	53
2001	225352	226716	47
2000	223899	225351	41
1999	222882	223898	35
1998	221596	222881	29
1997	220034	221595	24
1996	Lower	220033	20 *
VAR.	900000	Higher	50

\*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B.2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Property Description	\$ Cost New
Actuators—(See Metering Equipment)	
Automatic Control Equipment—(See Safety Systems)	
Automatic Tank Switch Unit—(See Metering Equipment)	
Barges - Concrete—(Assessed on an individual basis)	
Barges - Storage—(Assessed on an individual basis)	
Barges - Utility—(Assessed on an individual basis)	
Barges - Work—(Assessed on an individual basis)	
Communication Equipment—(See Telecommunications)	
Dampeners—(See Metering Equipment - "Recorders")	
DESORBERS—(No metering equipment included):	
125#	105,610
300#	116,440
500#	132,500
Destroilets—(See Metering Equipment - "Regulators")	
Desurgers—(See Metering Equipment - "Regulators")	
Desilters—(See Metering Equipment - "Regulators")	
Diatrollers—(See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings—(Assessed on an individual basis)	
Dry Dehydrators (Driers)—(See Scrubbers)	
Engines-Unattached—(Only includes engine & skids): Per Horsepower	340



Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included): Per Unit	38,740
Flow Splitters—(No metering equipment included): 48 In. Diameter Vessel	18,860
72 In. Diameter Vessel	24,980
96 In. Diameter Vessel	38,290
120 In. Diameter Vessel	54,400
Fire Control System—(Assessed on an individual basis)	
Furniture & Fixtures—(Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
50 HP and less – Per HP	1,440
51 HP to 100 HP – Per HP	1,240
101 HP and higher – Per HP	900
Gas Coolers—(No metering equipment):	
5,000 MCF/D	29,760
10,000 MCF/D	33,520
20,000 MCF/D	104,260
50,000 MCF/D	236,540
100,000 MCF/D	387,400
Generators—Package Unit only -(No special installation) Per K.W.	220
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	20,890
4.1 to 5.0 MMCF/D	23,300
5.1 to 10.0 MMCF/D	44,920
10.1 to 15.0 MMCF/D	62,490
15.1 to 20.0 MMCF/D	85,060
20.1 to 25.0 MMCF/D	110,610
25.1 to 30.0 MMCF/D	210,090
30.1 to 50.0 MMCF/D	234,690
50.1 to 75.0 MMCF/D	291,950
75.1 & Up MMCF/D	336,870
Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,240
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,100
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,000
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	16,280
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	20,100
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,180
30 In. Diameter Vessel - 500,000 BTU/HR Rate	8,480
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,060
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	15,660
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	20,040
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,920
30 In. Diameter Vessel - 450,000 BTU/HR Rate	9,880
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	14,820
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	17,010
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	19,260
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	30,430
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	36,550
Heat Exchange Units-Skid Mounted—(See Production Units)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	15,830
4 x 27 ft.	20,380
6 x 20 ft.	21,340
6 x 27 ft.	26,840
8 x 20 ft.	34,190
8 x 27 ft.	40,030
10 x 20 ft.	45,200
10 x 27 ft.	53,170
L.A.C.T. (Lease Automatic Custody Transfer) – See Metering Equipment)	
JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Up to 2 MMCF/D	39,300
Up to 5 MMCF/D	56,150
Up to 10 MMCF/D	134,750
Up to 20 MMCF/D	224,580
Liqua Meter Units—(See Metering Equipment)	
Manifolds—(See Metering Equipment)	
Material & Supplies-Inventories—(Assessed on an individual basis)	
Meter Calibrating Vessels—(See Metering Equipment)	
Meter Prover Tanks—(See Metering Equipment)	
Meter Runs—(See Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	6,120
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,910
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	4,660
30 In. Diameter Vessel - 1 bbl. Dump	6,010
36 In. Diameter Vessel - 2 bbl. Dump	8,310
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	4,380
24 In. Diameter Vessel - 1/2 bbl. Dump	5,280
30 In. Diameter Vessel - 1 bbl. Dump	6,630
36 In. Diameter Vessel - 2 bbl. Dump	8,930
L.A.C.T. & A.T.S. Units:	
30 lb. Discharge	29,420
60 lb. Discharge	33,520
Manifolds—Manual Operated:	
High Pressure	
per well	23,080
per valve	7,800
Low Pressure	
per well	11,170
per valve	3,710
Manifolds—Automatic Operated:	
High Pressure	
per well	41,720
per valve	13,760
Low Pressure	
per well	29,760
per valve	10,050
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Meter Runs—piping, valves & supports – no meters:	
2 In. piping & valve	6,290
3 In. piping & valve	7,070
4 In. piping & valve	8,530
6 In. piping & valve	11,900
8 In. piping & valve	17,880
10 In. piping & valve	23,810
12 In. piping & valve	29,760
14 In. piping & valve	40,540
16 In. piping & valve	52,940
18 In. piping & valve	65,580
20 In. piping & valve	85,230
22 In. piping & valve	107,410
24 In. piping & valve	131,490
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,650
5 bbl. calibration plate (24 x 10)	3,930
7.5 bbl. calibration plate (30 x 10)	5,500
10 bbl. calibration plate (36 x 10)	6,850
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,530
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	340
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	18,300
2 1/2 In. nominal size - per mile	24,650
3 & 3 1/2 In. nominal size - per mile	31,440
4, 4 1/2 & 5 In. nominal size - per mile	54,070
6 In. nominal size - per mile	79,390
Poly Pipe	
2 In. nominal size - per mile	10,050
2 1/2 In. nominal size - per mile	13,530
3 In. nominal size - per mile	17,290
4 In. nominal size - per mile	29,700
6 In. nominal size - per mile	43,620
Plastic-Fiberglass	
2 In. nominal size - per mile	15,610
3 In. nominal size - per mile	26,730
4 In. nominal size - per mile	45,930
6 In. nominal size - per mile	67,430
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(Assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit - separator & 1 heater – 500 MCF/D	19,760
Class II - per unit - separator & 1 heater – 750 MCF/D	26,330
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line	
per horsepower rating of motor	280
Pump-Motor Unit—pump and motor only	
Class I - (water flood, s/w disposal, p/l, etc.)	
Up to 300 HP - per HP of motor	340
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	390

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	
16 D	6,460
25 D	12,130
40 D	15,160
57 D	20,210
80 D	33,740
114 D	35,090
160 D	47,220
228 D	51,260
320 D	64,790
456 D	76,920
640 D	93,140
912 D	98,530
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(See Metering Equipment)	
Regulators:	
per unit	2,580
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	5,170
well & production equipment	5,950
with surface op. ssv, add	8,930
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	14,880
production train	37,220
glycol dehydration system	22,350
P/L pumps and LACT	52,100
Compressors	32,730
Wellhead Actuators (does not include price of the valve)	
5,000 psi	3,710
10,000 psi and over	5,560
NOTE: For installation costs - add 25%	
Sampler—(See Metering Equipment - "Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	3,140
10 In. Diameter Vessel	4,490
12 In. Diameter Vessel	5,110
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,460
12 In. Diameter Vessel	1,910
NOTE: No metering or regulating equipment included in the above.	
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	
6-5/8" OD x 5'-6"	4,600
8-5/8" OD x 7'-6"	5,000
10-3/4" OD x 8'-0"	7,020
12-3/4" OD x 8'-0"	9,430
16" OD x 8'-6"	15,160
20" OD x 8'-6"	22,400
20" OD x 12'-0"	23,580
24" OD x 12'-6"	31,780
30" OD x 12'-6"	46,380
36" OD x 12'-6"	55,130

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Separators—(No metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,220
30" OD x 10'-0"	5,610
36" OD x 10'-0"	11,730
Vertical 3—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	5,500
24" OD x 10'-0"	6,230
30" OD x 10'-0"	8,650
36" OD x 10'-0"	12,300
42" OD x 10'-0"	14,260
Horizontal 3—Phase /125 psi (Low Pressure)	
24" OD x 10'-0"	8,140
30" OD x 10'-0"	10,440
36" OD x 10'-0"	11,400
42" OD x 10'-0"	18,190
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	3,090
16" OD x 5'-6"	4,600
20" OD x 7'-6"	8,760
24" OD x 7'-6"	10,610
30" OD x 10'-0"	16,170
36" OD x 10'-0"	20,940
42" OD x 10'-0"	33,520
48" OD x 10'-0"	39,530
54" OD x 10'-0"	59,850
60" OD x 10'-0"	74,840
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,390
20" OD x 7'-6"	9,430
24" OD x 7'-6"	10,950
30" OD x 10'-0"	16,900
36" OD x 10'-0"	21,620
42" OD x 10'-0"	35,260
48" OD x 10'-0"	40,870
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	5,280
20" OD x 7'-6"	8,480
24" OD x 10'-0"	11,570
30" OD x 10'-0"	17,800
36" OD x 10'-0"	22,570
42" OD x 15'-0"	45,810
48" OD x 15'-0"	52,830
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	8,140
20" OD x 7'-6"	9,100
24" OD x 10'-0"	13,250
30" OD x 10'-0"	18,860
36" OD x 10'-0"	27,170
36" OD x 15'-0"	30,370
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	39,130
36" OD x 10'-0"	37,340
36" OD x 12'-0"	54,180
36" OD x 15'-0"	56,540
42" OD x 15'-0"	87,750
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	5,780
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—No metering equipment	Per Barrel*
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. Range (average tank size - 250 bbl.)	36.20
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size - 300 bbl.)	28.10

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Storage Tanks (Closed Top)	
1,000 barrel	23.90
1,500 barrel	21.10
2,000 barrel	20.50
2,001 - 5,000 barrel	18.90
5,001 - 10,000 barrel	17.70
10,001 - 15,000 barrel	16.60
15,001 - 55,000 barrel	11.60
55,001 - 150,000 barrel	8.80
Internal Floating Roof	
10,000 barrel	34.10
20,000 barrel	23.10
30,000 barrel	17.20
50,000 barrel	15.30
55,000 barrel	14.70
80,000 barrel	13.00
100,000 barrel	11.30
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone & data transmission	44,920
Radio telephone	3,370
Supervisory controls:	
remote terminal unit, well	9,600
master station	21,900
towers (installed):	
heavy duty, guyed, per foot	560
light duty, guyed, per foot	40
heavy duty, self supporting, per foot	570
light duty, self supporting, per foot	120
equipment building, per sq. ft.	170
solar panels, per sq. ft.	60
Utility Compressors	
per horsepower - rated on motor	740
Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	19,650
105 MCF/D max	28,070
250 MCF/D max	37,060
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	
2' diam. x 16'	5,330
3' diam. x 10'	7,970
4' diam. x 10'	11,000
6' diam. x 10'	18,020
6' diam. x 15'	20,830
8' diam. x 10'	26,110
8' diam. x 15'	29,980
8' diam. x 20'	33,240
8' diam. x 25'	37,000
10' diam. x 20'	43,510

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010).

**Chapter 11. Drilling Rigs and Related Equipment**  
**§1103. Drilling Rigs and Related Equipment Tables**

**A. Land Rigs**

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	916,500	137,500
4,000	1,013,100	152,000
5,000	1,319,200	197,900
6,000	1,772,200	265,800
7,000	2,317,600	347,600
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,909,000	436,400
9,000	3,508,200	526,200
10,000	4,085,100	612,800
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	4,617,800	692,700
12,000	5,092,500	763,900
13,000	5,503,400	825,500
14,000	5,853,000	878,000
15,000	6,151,900	922,800
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	6,418,800	962,800
17,000	6,680,400	1,002,100
18,000	6,971,900	1,045,800
19,000	7,336,200	1,100,400
20,000	7,824,500	1,173,700
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,496,400	1,274,500
25,000 +	9,419,200	1,412,900

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

\* \* \*

**C. Semisubmersible Rigs**

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0- 800 ft.	\$ 45,700,000	\$ 6,855,000
801-1,800 ft.	\$ 81,875,000	\$ 12,281,300
1,801-2,500 ft.	\$ 150,000,000	\$ 22,500,000
2,501- Up ft.	\$ 200,000,000	\$ 30,000,000

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. The fair market values and assessed values indicated by the tables above for drilling rigs are based on the current market (sales) appraisal approach and not the cost approach.

2. These tables assume complete rigs in good condition. If it is documented to the assessor that any drilling rig is incomplete or is in less than good condition, these amounts should be adjusted.

3. Significant variations from the "Good" condition are possible and must be considered when the drilling rig is valued. These variations in condition are acknowledged by HADCO in the newsletter pricing. Conditions from "poor" to "excellent" are priced for all depth ratings. If adjustments are needed, the most recent HADCO newsletter shall be used to determine the proper adjusted condition.

a. Significant factors that would DOWNGRADE the condition can be identified by:

i. a detailed estimate and description of substantial capital repairs needed on the rig and/or rig data sheet verifying the rig is of outdated technology (mechanical rig or the like).

b. Significant factors that would UPGRADE the condition can be identified by:

i. a rig manufactured date on the LAT form of less than three (3) years.

**D. Well Service Rigs Land Only**

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	218,000	32,700
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	270,000	40,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	310,000	46,500
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	340,000	51,000
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	358,000	53,700
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	436,000	65,400
VII	117' X 215M#	(2) 8V92 (2) 12V71	500,000	75,000

1. The RCNLD values given in the table above for service rigs have been determined with 60% default depreciation rate. The HADCO data for RCN of service rigs does not contain a stated condition (excellent, good, fair, etc.) similar to drilling rigs.

E. Consideration of Obsolescence

1. Functional and/or economic obsolescence is a loss in value of personal property above and beyond physical deterioration. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010).

**Chapter 13. Pipelines**

**§1305. Reporting Procedures**

A. - D. ...

E. Refer to current cost tables (1307.A and 1307.B) and depreciation guidelines (Table 1307.C) adopted by the Louisiana Tax Commission. Yearly depreciation will be allowed, according to actual age, on an economic life of 26.5 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than that allowed for the maximum actual age shown in Table 1307.C.

F. Assessment will be based on fair market value. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

G. Pipeline sales, properly documented, should be considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 35:498 (March 2009), LR 36:778 (April 2010).

**§1307. Pipeline Transportation Tables**

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 165,820	\$ 24,870
4	193,690	29,050
6	226,260	33,940
8	264,300	39,650
10	308,730	46,310
12	360,640	54,100
14	421,270	63,190
16	492,100	73,820

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
18	574,830	86,220
20	671,470	100,720
22	784,370	117,660
24	916,240	137,440
26	1,070,280	160,540
28	1,250,220	187,530
30	1,460,410	219,060
32	1,705,950	255,890
34	1,992,760	298,910
36	2,327,790	349,170
38	2,179,150	326,870
40	3,176,310	476,450
42	3,710,330	556,550
44	4,334,120	650,120
46	5,062,800	759,420
48	5,913,980	887,100

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$ 943,380	\$ 141,510
8	953,870	143,080
10	962,890	144,430
12	979,960	146,990
14	1,005,080	150,760
16	1,038,260	155,740
18	1,079,500	161,930
20	1,128,780	169,320
22	1,186,120	177,920
24	1,251,520	187,730
26	1,324,970	198,750
28	1,406,470	210,970
30	1,496,020	224,400
32	1,593,640	239,050
34	1,699,300	254,900
36	1,813,020	271,950
38	1,934,790	290,220
40	2,064,620	309,690
42	2,202,500	330,380
44	2,348,430	352,260
46	2,502,420	375,360
48	2,664,460	399,670

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	26.5 Year Life Percent Good
1	96
2	92
3	89
4	85
5	81
6	77
7	74
8	70
9	66
10	62
11	58
12	55
13	51

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	26.5 Year Life Percent Good
14	47
15	43
16	40
17	36
18	32
19	28
20	25
21	21
22 and older	20 *

\* Reflects residual or floor rate.

Note: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010).

**Chapter 15. Aircraft**

**§1503. Aircraft (Including Helicopters) Table**

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2009	1.013	1	97	.98
2008	1.042	2	93	.97
2007	1.083	3	90	.97
2006	1.142	4	86	.96
2005	1.195	5	82	.95
2004	1.285	6	78	.94
2003	1.330	7	74	.93
2002	1.352	8	70	.92
2001	1.360	9	65	.88
2000	1.372	10	60	.82
1999	1.396	11	55	.77
1998	1.401	12	50	.70
1997	1.413	13	45	.64
1996	1.436	14	40	.57
1995	1.457	15	35	.51
1994	1.510	16	31	.47
1993	1.552	17	27	.42
1992	1.582	18	24	.38
1991	1.602	19	22	.35
1990	1.634	20	21	.34
1989	1.678	21	20	.34

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February

1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010).

**Chapter 25. General Business Assets**

**§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property**

A. - A.1. ...

\* \* \*

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2009 = 100*
2009	1	1468.6	1.013
2008	2	1427.3	1.042
2007	3	1373.3	1.083
2006	4	1302.3	1.142
2005	5	1244.5	1.195
2004	6	1157.3	1.285
2003	7	1118.6	1.330
2002	8	1100.0	1.352
2001	9	1093.4	1.360
2000	10	1084.3	1.372
1999	11	1065.0	1.396
1998	12	1061.8	1.401
1997	13	1052.7	1.413
1996	14	1036.0	1.436
1995	15	1020.4	1.457
1994	16	985.0	1.510
1993	17	958.0	1.552
1992	18	939.8	1.582
1991	19	928.5	1.602
1990	20	910.2	1.634
1989	21	886.5	1.678
1988	22	841.4	1.768
1987	23	806.9	1.843
1986	24	795.4	1.870
1985	25	787.9	1.888
1984	26	776.4	1.916

\*Reappraisal Date: January 1, 2009 – 1487.2 (Base Year)

C. ...

\* \* \*

D. Composite Multipliers 2010 (2011 Orleans Parish)

Table 2503.D Composite Multipliers 2010 (2011 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.71	.86	.88	.91	.93	.95	.96	.98	.99
2	.51	.72	.76	.82	.88	.91	.94	.97	.99
3	.37	.56	.62	.73	.82	.87	.92	.97	.98
4	.18	.39	.47	.62	.77	.83	.90	.96	.97
5		.27	.36	.51	.69	.79	.87	.95	.96
6		.23	.24	.42	.63	.75	.87	.94	.95
7			.24	.35	.52	.67	.82	.93	.94
8				.30	.41	.58	.74	.92	.93
9				.27	.33	.49	.67	.88	.92
10					.29	.40	.59	.82	.91
11					.28	.34	.52	.77	.90
12						.31	.43	.70	.90
13						.28	.37	.64	.85

Table 2503.D Composite Multipliers 2010 (2011 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	
14							.33	.57	.80	
15							.31	.51	.76	
16							.30	.47	.72	
17								.42	.68	
18								.38	.62	
19								.35	.54	
20								.34	.49	
21								.34	.47	
22									.46	
23									.44	
24									.37	
25									.36	
26									.36	

1. - 1.c....

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780(April 2010).

**Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings**

A. ...

B.1. Each assessor shall publish the dates, time and place of the public exposure of the assessment lists of both real and personal property in a newspaper of general circulation in their respective parishes. Notice shall be published at least twice within a period of not sooner than 21 days nor later than seven days prior to the beginning of the 15 calendar day period of exposure.

2. Each assessor shall notify the Louisiana Tax Commission of the public exposure dates at least 21 days prior to the public exposure period, which dates shall be published by the Louisiana Tax Commission on its website.

C. - D. ...

E.1. Each assessor shall publish two notices of the parish's Board of Review appeal hearing dates in the local newspaper within a period of 21 and 7 days prior to the actual hearing date(s). Each assessor shall then notify the Tax Commission in writing of the Board of Review hearing date(s) and shall provide the commission with an affidavit executed by the local paper demonstrating proof of publication. Appeals must be received by the Board of Review no later than seven days prior to the public hearing.

2. Each assessor shall notify the Louisiana Tax Commission of the Board of Review appeal hearing dates prior to the beginning of the public exposure period, which dates shall be published by the Louisiana Tax Commission on its website.

F. - H.1. ....

2. The Board of Review shall consider all written complaints which have been filed in compliance with the following procedure.

a. The complaint form provided by the board, through the office of the assessor, must be completed in conformity with the requirements of the Board of Review.

b. The complaint form must be received in the assessor's office within five business days after the last date on which the lists are exposed.

c. The form must be forwarded by the assessor and received by the Board of Review within seven business days after the last date on which the lists are exposed.

d. The taxpayer must have timely filed the reports as required by R.S. 47:2301 et seq., and R.S. 47:2321 et seq.

H.3. - I. ...

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The notice of determination shall be sent to the assessor and the taxpayer at the address shown on the appeal form by certified mail.

K. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the Board of Review notice of determination. Either or both parties may appeal the Board of Review determination to the Tax Commission.

**Form 3101  
Exhibit A  
Appeal to Board of Review by Taxpayer  
for Real and Personal Property**

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_

Taxpayer

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Ward: \_\_\_\_\_ Assessment/Tax Bill Number: \_\_\_\_\_

Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Personal Property\* \$ \_\_\_\_\_  
Total \$ \_\_\_\_\_

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_ Personal Property\* \$ \_\_\_\_\_  
Total \$ \_\_\_\_\_

\* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon

between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of BOR's written determination. For further information, call LTC at (225) 925-7830.

Appellant \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No. \_\_\_\_\_

**AUTHORITY NOTE:** Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010).

**§3103. Appeals to the Louisiana Tax Commission**

A. ...

B. An appeal to the Louisiana Tax Commission shall be filed with the commission within 10 business days after the Board of Review's written decision is delivered to the appealing taxpayer or assessor via certified mail. In order to institute a proceeding before the commission, the taxpayer or assessor shall file Form 3103.A and, if applicable, Form 3103.B. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101(J).

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

D.1. All parties shall receive notice of the scheduling of an appeal hearing at least 30 days prior to the scheduled hearing date.

2. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision may attach a pleading containing further information concerning the appeal.

3. A taxpayer (except a homeowner appealing their personal residence) or assessor who has appealed the decision of the Board of Review shall file and serve on the

opposing party at least 15 days prior to the scheduled hearing date a pleading containing the following:

- a. name under which the property is assessed;
- b. description of the property;
- c. determination of the Board of Review;
- d. a prayer stating the type of relief, action or order desired by the pleading party;
- e. a list of exhibits to be presented at the hearing;
- f. a list of witnesses who may be called, with a brief description of the anticipated testimony of the witness;
- g. anticipated time needed to present the case; and
- h. an appraisal report or other appropriate evidence concerning the fair market value of the property.

4. The party who has not appealed the Board of Review decision shall notify the Louisiana Tax Commission and the opposing party at least 10 days prior to the scheduled hearing of the following:

- a. a list of exhibits to be presented at the hearing; and
- b. a list of witnesses who may be called with a brief description of the anticipated testimony of the witness.

E. - X. ...

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

**HISTORICAL NOTE:** Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010).

**§3105. Practice and Procedure for Public Service Properties Hearings**

A. The Tax Commission or its designated representative, as provided by law, shall conduct hearings to consider the written protest of an appellant taxpayer. The appeal shall be filed within 30 days after receipt of the Public Service Section's Certificate of Value. In order to institute a proceeding before the commission, the taxpayer shall file Form 3103.A and, if applicable Form 3103.B.

B.1. All filings to the Louisiana Tax Commission shall be filed, in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

2. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. - L. ...

M. Upon written notice by the commission the parties or their attorneys, or other representative, may be directed to file legal memorandums with the commission seven days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to



the commission together with a statement of any legal authority supporting the party's position.

N. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

O. Any party, with leave of the commission or hearing officer, may present prepared sworn deposition testimony of a witness, either narrative or in question and answer form, which shall be incorporated into the record as if read by the witness. The opposing party will be allowed to cross-examine the witness and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

P. The commission or hearing officer shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

Q. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written motion of the taxpayer showing that there is good cause for the issuance of same. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient.

R. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

S. The word *commission* as used herein refers to the chairman and the members or its delegate appointed to conduct the hearings.

between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone No.: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010).

**§3106. Practice and Procedure for the Appeal of Bank Assessments**

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of the Administrator. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. - T. ...

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010).

**§3107. Practice and Procedure for the Appeal of Insurance Credit Assessments**

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of the Administrator. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. - T. ....

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), amended LR 34:690 (April 2008), LR 36:782 (April 2010).

James D. "Pete" Peters  
Chairman

1004#008

LTC Docket No. \_\_\_\_\_

**Form 3105.A  
Exhibit A**

**Appeal to Louisiana Tax Commission  
by Taxpayer**

La. Tax Commission  
P.O. Box 66788  
Baton Rouge, LA 70896  
(225) 925-7830

Name: \_\_\_\_\_ Parish/District: \_\_\_\_\_

Taxpayer

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Address or Legal Description of Property Being Appealed \_\_\_\_\_

The Fair Market Value of the Public Service Section of the Louisiana Tax Commission is:

Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_

Personal Property\* \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

I am requesting that the Fair Market Value be fixed at:

Land \$ \_\_\_\_\_ Improvement \$ \_\_\_\_\_

Personal Property\* \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

\* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon

## RULE

### Department of Social Services Office of Community Services

#### Residential Licensing (LAC 67:V.Chapters 61-71)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Community Services, has promulgated rules in the *Louisiana Administrative Code* (LAC) Title 67, Part V, Subpart 8. Residential Licensing, to comply with Acts 388 and 400 of the 2009 Regular Session of the Louisiana Legislature.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Community Services

#### Subpart 8. Residential Licensing

#### Chapter 61. Emergency Shelter

#### §6101. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources Office of the Secretary Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6103. Organization and Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6105. Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2670 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6107. Admission, Intake and Acceptance of Children

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2672 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6109. Child Care, Development and Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2673 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6111. Children's Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2674 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6113. Building, Grounds and Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2676 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6115. Required Records and Reports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2677 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### §6117. Appendix I

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2678 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:784 (April 2010).

#### Chapter 63. Foster Care/Substitute Family Care

#### §6301. Definitions

NOTE: This Section has been moved from LAC 67:I.1301.

*Client*—a person placed in foster home by a placing agency.

*Corporal Punishment*—punishment inflicted in any manner upon the body.

*Foster Home*—a family home providing 24-hour care for clients unrelated to adult members of the household by blood, marriage, guardianship or adoption.

*Foster Parent(s)*—either a single person or a legally married couple approved to provide foster care.

*Placing Agency*—any organization legally authorized to place clients in foster home.

*Related*—includes individuals within the following degrees of relationship whether by blood, half-blood, adoption, or marriage: parent, spouse, sibling, grandparent, uncle, aunt, niece, nephew, son, daughter, grandchild, and first cousin. This includes persons of preceding generations denoted by prefixes of "great" and also includes persons whose relationship is denoted by prefixes of "step".

*Service Plan*—a comprehensive, time-limited, goal-oriented, individualized plan for the care, treatment and education of a client in care of a foster home. The service plan is based on a current comprehensive evaluation of the client's needs.

*Substitute Family Care (SFC)*—an arrangement wherein both children and adults with specific handicapping conditions are placed in the private homes of persons not related, as defined above, to clients. (NOTE: Exceptions with regard to relatedness may be made subject to the approval of the appropriate program office). Program administration and specialized professional and support services are provided through agents of the program office of DHHR responsible for providing services to individuals with specified disabilities.

*Single Person*—a person who is unmarried, separated, divorced, or widowed.

*Training*—any activity outside the normal routine of the foster home which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:784 (April 2010).

### **§6303. Qualifications**

NOTE: This Section has been moved from LAC 67:I.1303.

#### **A. Age**

1. Foster parent(s) shall have a birth certificate or other document as evidence that they meet the following age requirements.

a. A foster parent shall be at least 21 years of age.

b. Persons receiving initial approval as foster parent(s) shall be less than 65 years of age.

2. Except with regard to the above age limitations, the age of foster parent(s) shall be considered only as it affects the ability of the foster parent(s) to care for the client(s).

#### **B. Marital Status**

1. Foster parent(s) shall be either a single person or a legally married couple.

#### **C. Income**

1. Foster parent(s) shall have sufficient income to meet their needs and ensure the security and stability of the household, independent of foster care maintenance payments.

#### **D. Employment**

1. A single foster parent or a foster parent couple who both work outside the home shall have a plan for caring for client(s) approved by the placing agency.

2. Foster parent(s) shall obtain approval from the placing agency for a business conducted in the home, demonstrating that the activities related to this business will not interfere with the care of the client(s).

a. A foster home shall not be used as a lodging for transient roomers or as a day care center for non-related children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:785 (April 2010).

### **§6305. Personal Characteristics**

NOTE: This Section has been moved from LAC 67:I.1305.

#### **A. General**

1. Foster parent(s) shall demonstrate emotional stability, good character, a responsible adult life style, freedom from excessive use of alcohol or use of illegal drugs and the ability to provide appropriate supervision, humane care, reasonable discipline and a home-like environment for the client(s).

a. Foster parent(s) shall demonstrate a capacity for setting realistic expectations for behavior and performance based on age, abilities and disabilities of the client(s).

b. Foster parent(s) shall demonstrate the emotional stability of a healthy adult as evidenced by a willingness to discuss and deal appropriately with their own feelings of anger, frustration, sorrow, conflict and affection and those of others.

#### **B. Criminal Record Check**

1. Foster parent(s) and all other members of the household 18 years of age or older shall sign a release for a criminal record check and shall be free of convictions, indictment or substantial evidence of involvement in any criminal activity involving violence against a person, serious sexual misconduct, gross irresponsibility or disregard for the safety of others or serious violations of accepted standards or ethical conduct.

a. Exceptions to the above requirement shall be made, at the discretion of the placing agency, when the criminal activity is not recent or is not sufficiently serious to warrant disqualification and poses no current or future threat to the health, safety, or well-being of the client(s).

#### **C. References**

1. Foster parent(s) shall provide the names, addresses and telephone numbers of five persons who may be contacted by the placing agency as personal references.

a. At least three of the required references shall be persons not related to the foster parent(s) by blood or marriage.

#### **D. Informed Consent of Household**

1. Foster parent(s) shall ensure that all members of the household are informed of and agree to the acceptance of the client(s) into the home.

a. Exceptions to the above requirement shall be made, at the discretion of the placing agency, when the

household member involved is incapable of communication or informed decision-making and poses no threat to the health, safety or well-being of the client(s).

#### E. Health

1. Foster parent(s) shall, as required by the placing agency, provide information on the physical and mental health history of every member of the household.

2. Members of the household must be free of communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the household to provide adequate care for the client(s).

3. Foster parent(s) shall, on request, provide a medical statement from a licensed physician verifying that household members are free of communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the household to provide adequate care for the client(s).

4. Handicapping conditions of foster parent(s) or household members are to be considered only as they affect the ability of the household to care for the client(s).

#### F. Physical Examination

1. Prior to initial approval of the foster home, a licensed physician shall examine the foster parent(s) and certify that they are free of tuberculosis and other communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the foster parent(s) to care for the client(s).

a. Physical examinations shall be updated every three years. Tuberculosis scans are not required for follow-up examinations.

b. Foster parent(s) shall obtain a physical examination and provide a written report on the findings of this examination whenever required to do so by the placing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:785 (April 2010).

### **§6307. Professional Responsibilities**

NOTE: This Section has been moved from LAC 67:1.1307.

#### A. Training

1. Foster parent(s) shall complete an initial orientation and training program involving at least six hours of training activities prior to accepting the first foster client.

a. Exceptions to the above requirements may be granted when a client requires emergency placement. In such circumstances, the foster parents shall receive the initial six hours of training within 90 days of the placement of the initial client.

2. Foster parent(s) shall participate in at least 15 hours of approved training and consultation activities each year. These hours may be shared between both persons in a foster parent couple, but each person must receive at least five hours of training.

a. Exceptions to the above requirement may be granted at the discretion of the placing agency when foster parent(s) are considered sufficiently trained or experienced to provide high-quality foster care.

#### B. Records

1. Foster parent(s) are responsible for keeping records on the client(s) as required by the placing agency. Each client's record shall contain at least the following information:

a. client's name, age, religion and, if available, birth date;

b. names, addresses and telephone numbers of the client's caseworker and other representatives of the placing agency involved in monitoring the placement;

c. emergency telephone number(s) for obtaining consent for medical treatment;

d. date on which the client arrives and date the client leaves the home;

e. records on immunizations and medical treatment;

f. name, address and phone number of the client's physician;

g. a listing of any serious illnesses or hospitalization;

h. information regarding serious food or drug allergies and other chronic or handicapping conditions;

i. dates of family visits;

j. school reports or employment records;

k. names of relatives with whom contact may be maintained.

2. Foster parent(s) shall maintain records in a confidential manner which ensures that a client's record will not be read by persons not involved in the client's care and treatment. The client's record shall be given to the placing agency when the client leaves the foster home.

#### C. Capacity

1. Foster parent(s) shall not exceed the following maximum capacities of foster homes.

a. SFC foster parent(s) shall care for a maximum of four clients.

b. All other foster parent(s) shall have no more than eight dependents, including clients and their own children and shall care for a maximum of six clients.

c. Exceptions to the above maximum capacities may be granted at the discretion of the placing agency, when such exceptions will not have an adverse effect on the care of clients already in the home.

2. Foster parent(s) shall not care for more than two children who are under the age of two years, including their own children.

a. Exceptions to the above requirements may be granted at the discretion of the placing agency when such exception is considered to present no risk to the care of clients.

#### D. Relationship with the Placing Agency

1. Foster parent(s) shall cooperate with the placing agency staff in home surveys and in the ongoing monitoring of the foster home.

a. Foster parent(s) shall provide the placing agency any information reasonably related to compliance with these requirements and shall allow representatives of the placing agency access to any member of the household and into all rooms within the home.

2. Foster parent(s) shall notify the placing agency prior to allowing any person to take up residence in the foster home.

3. Foster parent(s) shall notify the placing agency immediately in any of the following circumstances:

- a. a serious injury or illness involving medical treatment of the client;
- b. the death of a client;
- c. unauthorized absence of the client from the home;
- d. removal of the client from the home by any person or agency other than the placing agency; or attempts at such removal;
- e. any fire or other emergency requiring evacuation of the home;
- f. any serious altercations involving clients;
- g. any involvement of client(s) with authorities;
- h. in no instance shall notification of any of the above circumstances be given later than 12 hours after the occurrence.

4. Foster parent(s) shall inform the placing agency at least four weeks prior to a planned move of the family home.

5. Foster parent(s) shall inform the placing agency as soon as possible in any of the following circumstances:

- a. any serious illness or death in the household;
- b. the departure of any member of the household;
- c. any other circumstances or incident seriously affecting clients or client care.

#### E. Goal-Setting Conference

1. Foster parent(s) will participate in an annual goal-setting conference with the placing agency to evaluate the strengths and weaknesses of the foster home and of the supportive relationships of placing agency representatives with foster parent(s). This conference will result in a brief written plan, provided by the placing agency to all parties to improve services and relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:786 (April 2010).

### §6309. Client Care and Treatment

NOTE: This Section has been moved from LAC 67:1.1309.

#### A. The Care and Treatment Team

1. Foster parent(s) will work cooperatively with placing agency representatives as members of a treatment team responsible for planning, providing and discussing the total care and services provided to each client.

a. Foster parent(s) shall fully disclose all information related to a client's problems or progress to placing agency representatives.

2. Foster parent(s) shall treat any personal information about a client or the client's family in a confidential manner.

#### B. Support System

1. Foster parent(s) shall have an adequate support system for supervising and providing care for client(s) on an ongoing basis while allowing foster parent(s) opportunities for conducting personal business and for enjoying occasional breaks from the responsibility for caring for client(s).

a. Any person given the responsibility for the client(s) on a regular basis must be identified to and approved by the placing agency.

#### C. The Client's Family

1. When the client is minor when an adult client's family is available and accepting of contact with the client, foster parent(s) shall maintain a working relationship with

the client's family in accordance with the client's service plan and in cooperation with placing agency staff. In such circumstances, the foster parent(s) will participate in planning for and providing visits by the client with his/her biological parents, friends, and other family members.

2. Foster parent(s) shall allow biological parents and other family members to communicate with the client by mail and by telephone in accordance with the client's service plan.

#### D. Client Care

##### 1. Daily Routine

a. Foster parent(s) shall provide a flexible daily routine for the client(s). This routine shall be similar to the routine of other family home and shall be developed to be appropriate to each client's age and abilities.

i. Opportunities shall be provided for experiencing normal social life in the community, for recreation, for appropriate physical exercise and for intellectual, spiritual and emotional growth.

##### 2. Household Tasks

a. Foster parent(s) shall only expect a client to perform household tasks which are within the client's abilities, are reasonable for the client's age and are similar to those expected of other household members.

b. Foster parent(s) shall as appropriate, teach the client(s) the tasks and skills required for independent life in the community.

##### 3. Food and Nutrition

a. Foster parent(s) shall ensure that each client is provided with three nutritionally balanced meals a day and shall, in accordance with the client's service plan or on the advice of a licensed physician, provide for special dietary needs of a client.

i. The dietary laws of a client's religion shall be observed in the food provided to that client.

##### 4. Clothing

a. Foster parent(s) shall ensure that each client is provided with adequate, well-fitting, clean clothing appropriate to the season and to the client's age, sex, activities and individual needs. Clothing shall be in good repair and shall be reasonably fashionable and in style.

i. A client's clothing shall be of a quality commensurate with that of other household members and shall meet community standards.

ii. A client's clothing shall be his/her own, not shared in common.

iii. A client's clothing shall go with the client at the time of discharge.

iv. Second-hand shoes shall not be provided.

##### 5. Personal Belongings

a. Foster parent(s) shall ensure that each client is provided with clean towels, washcloths, his/her own toothbrush, his/her own comb or hair brush and other toiletry items suitable to the client's age and sex.

b. Foster parent(s) shall allow the client(s) to bring, possess and acquire personal belongings subject only to reasonable household rules and the client's service plan.

i. Personal belongings shall be sent with the client when he/she leaves the home.

##### 6. Money

a. Foster parents shall ensure that the client(s) have the opportunity to have spending money in amounts

appropriate to their age and abilities, either through a regular allowance, paid work, employment or money paid directly to the client from other sources.

i. A client's money from any source shall be his/her own and may be subject to restrictions only according to his/her service plan.

ii. Clients shall not be required to pay for any mandated foster home service, except according to their service plans.

iii. Clients shall not be required to pay for necessary toiletry items.

b. Foster parent(s) shall, as appropriate to the client's age and abilities make every effort to teach good habits of money management, budgeting and shopping.

#### 7. Hygiene

a. Foster parent(s) shall, through careful daily monitoring, make every effort to teach a client good habits of personal hygiene and grooming appropriate to the client's sex, age and culture.

#### 8. Heritage

a. Foster parent(s) shall recognize, encourage and support the religious beliefs, ethnic heritage and language of a client and his/her family.

b. Foster parent(s) shall allow a client freedom to express his/her feelings about his/her family, past, current status and future.

c. Foster parent(s) shall, whenever possible, arrange transportation for clients to attend religious services or ethnic events in the community.

#### 9. Discipline and Control

a. Foster parent(s) shall provide loving and humane discipline and control for a client as appropriate to the client's age and understanding.

i. Methods of control shall stress praise and encouragement for good behavior, rather than punishments for bad behavior.

b. Foster parent(s) shall not allow the client(s) to be subjected to verbal abuse, derogatory remarks about themselves or their families or threats of removal from the foster home.

c. Foster parents shall not use the following punishments or permit their use by others on clients:

i. any cruel, severe, humiliating or unusual punishment;

ii. corporal punishment;

iii. denial of adequate nourishment, shelter, clothing or other basic services;

iv. denial of family contact when used as a punishment;

v. physically strenuous exercise or harsh work;

vi. isolation in a locked room or any closet or other enclosed space;

vii. isolation in an unlocked room for more than one hour.

d. Foster parent(s) shall not punish a client for bedwetting or any other action currently beyond the client's control.

e. Foster parent(s) shall not allow a client to be punished by other clients, by individuals not known to the client or by any person not authorized to care for the client.

10. Exploitation and Client Rights: Foster parent(s) shall ensure that clients are protected from exploitation in

any form and are allowed to enjoy the normal rights, freedoms and responsibilities of community life subject only to reasonable household rules, age-appropriate restrictions and restrictions in accordance with the client's service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:787 (April 2010).

#### §6311. Medical and Dental

NOTE: This Section has been moved from LAC 67:I.1311.

A. Foster parent(s) shall cooperate in planning the medical and dental care and other therapeutic services for the client.

B. Foster parent(s) shall be responsible for arranging transportation for clients to all necessary medical and dental appointments.

C. Foster parent(s) shall arrange or cooperate in arrangements for keeping immunizations current for the clients.

D. Foster parent(s) shall arrange or cooperate in arrangements for an annual physical examination of each client and medical appointments and follow-up appointments as needed.

E. Foster parent(s) shall arrange or cooperate in arrangements for regular dental appointments and follow-up appointments for the client(s). Foster parent(s) shall arrange for semi-annual dental checkups for clients three to six years of age and annual checkups for clients over six years of age.

F. Foster parent(s) shall immediately report to the placing agency any serious changes in the health of the client.

G. Foster parent(s) shall report to the placing agency any corrective or follow-up medical or dental care for the client needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:788 (April 2010).

#### §6313. Medications

NOTE: This Section has been moved from LAC 67:I.1313.

A. Foster parents shall be responsible for ensuring that drugs ordered for the client are available, that such drugs and other medical supplies are safely stored and that the client receives the drugs ordered in accordance with prescription directions.

1. A client shall not be given a prescription drug not prescribed for that client.

2. Dosages of prescription medications shall be changed only by a doctor's order.

3. Foster parent(s) shall exercise good judgment in providing nonprescription medicines only when the client actually needs them and shall use non-prescription medications only in accordance with the directions on the label of the medicine.

4. Any frequent use of non-prescription medicine shall be reported to the placing agency.

5. Foster parent(s) shall make every effort to learn and look for potential negative side-effects of both prescription and non-prescription drugs and shall report any negative side-effect to a physician immediately.

6. At the request of the placing agency, foster parent(s) may be required to keep medication log for the

client(s) detailing all medications given, the date and time, the name(s) of the client(s) and the signature of the person administering the medication.

B. When a client is placed on any drug prescribed to alter the client's mood or change the client's behavior, the foster parent(s) shall ensure that the placing agency is informed prior to giving the drug to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:788 (April 2010).

#### **§6315. Seizure Log**

NOTE: This Section has been moved from LAC 67:I.1315.

A. At the request of the placing agency, foster parent(s) shall keep a log of seizure activity including:

1. the time of occurrence of the seizure;
2. a description of the seizure including duration, intensity and any unusual circumstances which may have precipitated the seizure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6317. Recreation and Community Activities**

NOTE: This Section has been moved from LAC 67:I.1317.

A. Foster parent(s) shall provide opportunities for physical exercise and recreational activities for the client(s) as appropriate to their ages and abilities.

B. Foster parent(s) shall encourage and provide opportunities for the client(s) to take part in community services and activities both with the foster family and, when possible, on their own.

1. Clients shall have opportunities for social interactions with persons of the opposite sex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6319. Education, Training and Employment**

NOTE: This Section has been moved from LAC 67:I.1319.

A. Foster parent(s) shall cooperate in educational planning for the school-age client(s) and shall, when receiving a school-age client, ensure that immediate steps are taken to place the client in an appropriate, approved school program.

1. Clients shall be encouraged to become involved in appropriate extracurricular activities.

B. When a client is involved in a training program, sheltered employment program or employment in the community, foster parent(s) shall assist the client in meeting his/her commitments and responsibilities in accordance with the service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6321. Exterior Environment**

NOTE: This Section has been moved from LAC 67:I.1321.

A. A foster home shall be reasonably safe, in good repair and comparable in appearance and maintenance to other family homes in the community.

B. The home and the exterior around the home shall be free from objects, materials and conditions which constitute a danger to the clients' served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6323. Play Area**

NOTE: This Section has been moved from LAC 67:I.1323.

A. A foster home serving children shall have a safe outdoor play area which clients may use either on the property or within a reasonable distance of the property.

B. Any play equipment on the property shall be safe, well-constructed and suitable for the clients served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6325. Kitchen**

NOTE: This Section has been moved from LAC 67:I.1325.

A. Foster parent(s) shall have the necessary equipment for the safe preparation, storage, serving and cleanup of meals.

B. Foster parent(s) shall maintain all cooking areas and cooking and refrigeration equipment in working and sanitary condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6327. Dining Area**

NOTE: This Section has been moved from LAC 67:I.1327.

A. A foster home shall have a comfortable dining area with sufficient furniture to allow all members of the household to eat together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6329. Living Room**

NOTE: This Section has been moved from LAC 67:I.1329.

A. A foster home shall have living and family room space comfortably furnished and accessible to the client(s) and sufficiently large to accommodate the various activities of the family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

#### **§6331. Bedrooms**

NOTE: This Section has been moved from LAC 67:I.1331.

A. Sleeping arrangements in a foster home shall be subject to the prior approval of the placing agency.

B. Foster parent(s) shall permit no more than four clients to a bedroom.

C. Foster parent(s) shall provide each client with his/her own bed and each infant with his/her own crib. The bed shall be no shorter than the client's height and no less than 30 inches wide. It shall have a clean, comfortable, non-toxic mattress.

D. Foster parent(s) shall provide bed linens and sufficient blankets and pillows for all clients.

E. Foster parent(s) shall not permit clients over the age of four years to share a bedroom with a person of the opposite sex.

1. Clients under the age of 18 years shall not share bedrooms with adults, except when a client's needs close supervision due to illness or except at the discretion of the placing agency.

F. Foster parent(s) shall provide a chest, dresser or other adequate storage space for a client's clothing and personal belongings in the client's bedroom. A designated space for hanging up clothes shall be provided near the client's sleeping area.

G. Foster parent(s) shall allow some scope in the decoration of sleeping areas for the personal tastes and expressions of the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:789 (April 2010).

### **§6333. Bathrooms**

NOTE: This Section has been moved from LAC 67:I.1333.

A. A foster home shall have a minimum of one flush toilet, one wash basin with hot and cold running water, and one bath or shower with hot and cold water.

B. Foster parent(s) shall equip each bathroom with toilet paper, towels, soap, and other items required for personal hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:790 (April 2010).

### **§6335. General Safety**

NOTE: This Section has been moved from LAC 67:I.1335.

A. A foster home shall be well heated and ventilated.

B. Foster parent(s) shall equip windows and doors with screens.

C. Foster parent(s) shall have access to a telephone within a reasonable distance of the home.

D. SFC foster parents shall have a telephone in the home.

E. Foster parent(s) shall ensure the safe storage of drugs, poisons, or other harmful materials.

F. Foster parent(s) shall store firearms and ammunition in areas not normally accessible to clients. More stringent requirements may be imposed, at the discretion of the placing agency, depending on the ages and capabilities of clients in the home.

1. Foster parent(s) shall not purchase firearms for clients, permit clients to use firearms without written authorization from the placing agency.

G. Foster parent(s) shall have household first aid supplies for treating minor cuts, burns and other minor injuries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:790 (April 2010).

### **§6337. Fire Safety**

NOTE: This Section has been moved from LAC 67:I.1337.

A. A foster home shall be free from fire hazards.

1. Foster parent(s) shall, at the request of the placing agency, submit their home to inspection by a fire safety expert.

B. A foster home shall be equipped with an operating smoke alarm on each floor used for sleeping.

C. Foster parent(s) shall ensure that each client knows how to evacuate from the home in the event of a fire and shall conduct periodic evaluation drills.

D. Foster parent(s) shall store combustible substances away from sources of heat.

E. A foster home in a mobile home shall have two doors which provide unrestricted exits to the outside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:790 (April 2010).

### **§6339. Health and Sanitation**

NOTE: This Section has been moved from LAC 67:I.1339.

A. Foster parent(s) shall keep the home clean and free of hazards to the health and physical well-being of the family.

B. The home shall have a continuous supply of drinking water approved by local health authorities. If the water is not from a city water supply, the foster parent(s) shall have the water tested and approved.

C. Milk served to the client(s) shall either be Grade A and pasteurized or from an approved source.

D. All plumbing in the foster home shall be in working order.

E. A foster home shall have an adequate supply of hot water for bathing and dish washing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:790 (April 2010).

### **§6341. Transportation**

NOTE: This Section has been moved from LAC 67:I.1341.

A. A foster home shall have a safe means of transportation adequate to meet the needs of the household.

B. Foster parent(s) shall ensure that any vehicle used to transport client(s) is properly maintained, licensed and inspected as required by state law.

1. The driver of any vehicle used to transport client(s) by the foster home shall be properly licensed to operate that vehicle according to state law.

2. Any vehicle used to transport client(s) by the foster home shall be properly licensed to operate that vehicle according to state law.

3. Any vehicle which client(s) are permitted to drive by the foster home shall carry sufficient liability insurance covering client use of the vehicle.

4. Foster parent(s) shall not permit a client to operate a motor vehicle without a valid Louisiana license or learner's permit and the written authorization of the placing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.



HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:790 (April 2010).

## Chapter 65. Transitional Living

### §6501. Purpose

NOTE: This Section has been moved from LAC 67:I.1501.

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the state of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:791 (April 2010).

### §6503. Authority

NOTE: This Section has been moved from LAC 67:I.1503.

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:791 (April 2010).

### §6505. Waivers

NOTE: This Section has been moved from LAC 67:I.1505.

A. The Secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:791 (April 2010).

### §6507. Application for Licensure

NOTE: This Section has been moved from LAC 67:I.1507.

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services  
Bureau of Licensing  
P.O. Box 3078  
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of:

- i. \$200 for each transitional youth residence caring for 6 or fewer youths;
- ii. \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and
- iii. \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals  
P. O. Box 2944  
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offence. The Department of Social Services may file suit in the district court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:791 (April 2010).

### §6509. Definitions

NOTE: This Section has been moved from LAC 67:I.1509.

*Abuse*—the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

*Administrator*—the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

*DSS*—the Department of Social Services.

*Documentation*—written evidence or proof, signed and dated.

*Human Services Field*—psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

*Shall or Must*—indicates mandatory standards.

*Transitional Youth Residence*—any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than 20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

*Transitional Youth Residence Program*—a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

*Transitional Living*—a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:791 (April 2010).

#### **§6511. Inspections**

NOTE: This Section has been moved from LAC 67:I.1511.

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:792 (April 2010).

#### **§6513. General Requirements**

NOTE: This Section has been moved from LAC 67:I.1513.

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:792 (April 2010).

#### **§6515. Governing Body**

NOTE: This Section has been moved from LAC 67:I.1515.

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;

6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;

7. annually evaluate the director's performance;

8. have the authority to dismiss the director;

9. meet with designated representatives of DSS whenever required to do so;

10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and

11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:792 (April 2010).

#### **§6517. Accounting**

NOTE: This Section has been moved from LAC 67:I.1517.

A. A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:792 (April 2010).

#### **§6519. Administrative Files**

NOTE: This Section has been moved from LAC 67:I.1519.

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;

2. all leases, contracts and purchase-of-service agreements to which the provider is a party;

3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;

4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:792 (April 2010).

#### **§6521. Program Description**

NOTE: This Section has been moved from LAC 67:I.1521.

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g., career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g., money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following:

- a. vocational assessment or training;
- b. GED classes;
- c. preparation for college entrance exams;
- d. driver's education, if appropriate;
- e. counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:793 (April 2010).

#### **§6523. Records**

NOTE: This Section has been moved from LAC 67:I.1523.

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:793 (April 2010).

#### **§6525. Confidentiality and Security of File**

NOTE: This Section has been moved from LAC 67:I.1525.

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:793 (April 2010).

#### **§6527. Staffing Requirements**

NOTE: This Section has been moved from LAC 67:I.1527.

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;
6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:793 (April 2010).

### **§6529. Staff Plan and Practices**

NOTE: This Section has been moved from LAC 67:I.1529.

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:794 (April 2010).

### **§6531. Personnel File**

NOTE: This Section has been moved from LAC 67:I.1531.

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;
9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:794 (April 2010).

### **§6533. Orientation**

NOTE: This Section has been moved from LAC 67:I.1533.

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;
2. instructions in the specific responsibilities for the employee's job;
3. implementation of the transitional living plan;
4. emergency and safety procedures including medical emergencies;
5. detecting and reporting suspected abuse and neglect;
6. reporting critical incidents;
7. rights of youth;
8. crisis de-escalation and management of aggressive behavior;
9. assistance with self-administration of medications;
10. universal precautions;
11. methods of facilitating youth development training;
12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:794 (April 2010).

### **§6535. Training**

NOTE: This Section has been moved from LAC 67:I.1535.

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:794 (April 2010).

### **§6537. Staff Communications**

NOTE: This Section has been moved from LAC 67:I.1537.

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:794 (April 2010).

### **§6539. External Professional Services**

NOTE: This Section has been moved from LAC 67:I.1539.

A. A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:794 (April 2010).

#### **§6541. Admission Policy**

NOTE: This Section has been moved from LAC 67:I.1541.

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement.

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:795 (April 2010).

#### **§6543. Service Agreement**

NOTE: This Section has been moved from LAC 67:I.1543.

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;
6. specification of financial arrangements including any fees to be paid by the youth;
7. authorization to care for the youth;
8. authorization for medical care;
9. attendance and absences from the provider to also include curfew times; and
10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:795 (April 2010).

#### **§6545. Service Planning**

NOTE: This Section has been moved from LAC 67:I.1545.

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;
2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);
3. recognizing when to contact a physician;
4. money management, budgeting, and consumer awareness (i.e., paying bills, shopping, food management, sources of income, credit);
5. self-administration of medication;
6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;
7. career planning/career interests;
8. use of transportation (i.e., ability to access public transportation, learning to drive, obtaining insurance);
9. social skills;
10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);
11. vocational/job skills/job seeking skills (i.e., employment experience, training);
12. identifying community resources;
13. education (i.e., current grade level; education goals/expectations/plans);
14. locating housing;
15. problem solving/decision making;
16. time management (punctuality and attendance);
17. communication skills;
18. parenting skills;
19. legal issues, knowledge of legal rights; and
20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;
2. time-limited, measurable objectives addressing training in skill areas identified as needs;
3. the type and frequency of supervision needed;

4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;

5. the life skills and the criteria necessary for achieving a successful discharge; and

6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:795 (April 2010).

#### **§6547. Youth's Case Record**

NOTE: This Section has been moved from LAC 67:I.1547.

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;

2. other identification data including court status and legal status, identifying who is authorized to give consent;

3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;

4. the service agreement;

5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;

6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;

7. assessment of the youth's independent living skills;

8. a copy of the youth's individual service plan and any modifications or updates of the service plan;

9. monthly progress reports;

10. the names, addresses and phone numbers of the youth's physician and dentist;

11. psychological and psychiatric evaluation, if applicable;

12. dates of admission and discharge;

13. signed acknowledgement of rights and grievance procedures; and

14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;

2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;

3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:796 (April 2010).

#### **§6549. Accounting for Youth's Money**

NOTE: This Section has been moved from LAC 67:I.1549.

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan. The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:796 (April 2010).

#### **§6551. Supervision and Support**

NOTE: This Section has been moved from LAC 67:I.1551.

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:796 (April 2010).

#### **§6553. Rights and Grievance Procedures for Youth**

NOTE: This Section has been moved from LAC 67:I.1553.

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;

4. are actively and meaningfully making decisions affecting his/her life;

5. are allowed to have privacy;

6. are allowed visits to and from his/her family and friends;

7. are not required to work without compensation;

8. are treated with dignity and respect;

9. are provided due process;

10. have access to records, including information about their finances;

11. participate in self-directed service planning which is developed and modified timely;

12. are provided adequate and appropriate assistance in meal planning;

13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;

14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;

15. are provided access to professional and specialized services, as appropriate;

16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;

17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;

18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;

19. shall be free to consult with legal counsel of their choice;

20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:796 (April 2010).

## **§6555. Reporting of Critical Incidents and Abuse and Neglect**

NOTE: This Section has been moved from LAC 67:11555.

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

B. A provider shall have comprehensive written procedures concerning abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect youth; and

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:797 (April 2010).

#### **§6557. Behavior Management**

NOTE: This Section has been moved from LAC 67:I.1557.

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

#### **§6559. Transportation**

NOTE: This Section has been moved from LAC 67:I.1559.

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

#### **§6561. Physical Environment**

NOTE: This Section has been moved from LAC 67:I.1561.

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

#### **§6563. Capacity**

NOTE: This Section has been moved from LAC 67:I.1563.

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

#### **§6565. Emergency Procedures**

NOTE: This Section has been moved from LAC 67:I.1565.

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

1. instruction in evacuation from the living situation;

2. instruction in contacting police, fire and other emergency services; and

3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

#### **§6567. Food Service**

NOTE: This Section has been moved from LAC 67:I.1567.

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

#### **§6569. Discharge**

NOTE: This Section has been moved from LAC 67:I.1569.

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.



C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

1. a summary of services provided during involvement in the program;
2. a summary of growth and accomplishments during involvement;
3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:798 (April 2010).

## **Chapter 67. Maternity Home**

### **§6701. Fee**

NOTE: This Section has been moved from LAC 67:I.1701.

A. There is an annual licensure fee of \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:799 (April 2010).

### **§6703. Definition**

NOTE: This Section has been moved from LAC 67:I.1703.

A. A maternity home is defined as "any place in which any person, society, agency, corporation, or facility receives, treats or cares for within a period of six months, more than one illegitimately pregnant woman, either before, during or within two weeks after childbirth. The provisions of this definition shall not include the sixth degree of kindred computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental." This definition does not include foster family homes used by agencies in lieu of group care. These foster family homes would come under regulations governing child placing agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:799 (April 2010).

### **§6705. Application**

NOTE: This Section has been moved from LAC 67:I.1705.

A. The original application for a license is made on a form provided by the Division of Licensing and Certification. A license will be issued for a period of one year unless there is mutual agreement between the division and the maternity home that it be for a greater or lesser period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:799 (April 2010).

### **§6707. Licensing Procedures**

NOTE: This Section has been moved from LAC 67:I.1707.

A. A social services consultant of the division's staff will prepare a comprehensive survey of the home's program, measuring performance in relation to requirements and offering recommendations and suggestions in indicated areas. This report will be made available to the facility for

review of facts prior to submission to the director of the Division of Licensing and Certification for a decision on the license. A home has the right to appeal through the court if its license is denied or revoked.

B. The licensing report is held confidential by the division but must be released to persons or courts upon request.

C. A maternity home which is operated in conjunction with other programs subject to license, such as child caring and/or child placing programs, shall obtain a license for each of its programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:799 (April 2010).

## **§6709. Organization and Administration**

NOTE: This Section has been moved from LAC 67:I.1709.

### **A. Purpose**

1. There shall be a written statement specifying the purpose of the maternity home. This statement shall be one which has been adopted by the governing body. All functions of the maternity home shall be stated in its charter, or articles, when the home operates under one of these.

2. It shall be clear from the practices of the home that the purposes for which it was declared to be established are being met.

3. The governing body shall adopt a supplementary statement of any new function which is added to the program of the maternity home.

### **B. Governing Body**

1. There shall be a responsible governing body which shall be of the following:

- a. a board of local citizens elected or appointed for that purpose;
- b. a religious, fraternal, charitable organization, or veteran's organization; or
- c. a public authority.

2. This governing body shall exercise sufficient authority so that it can reasonably be held responsible for the practices within the maternity home.

3. The governing body shall have the power to appoint or dismiss the executive director and shall carry responsibility for the direction of the program.

4. If the governing body is a national or regional organization and has a local advisory board or committee, minutes of the local group setting forth changes in policies and administrative decisions affecting the local operation shall be made available to the licensing authority.

### **C. Administrative Responsibilities**

1. There shall be one person employed by the governing body to serve as superintendent or executive director. This person shall be responsible for the administration of the maternity home.

2. The agency executive director or superintendent shall be responsible for the direction and supervision of all personnel employed in the maternity home.

3. The duties, responsibilities, and authority of each staff member shall be clearly defined specifying:

- a. where responsibilities, and authority rest for each of his or her functions within the maternity home;
- b. that no responsibility or authority shall conflict with another.

4. The duties, responsibilities, and authority of each board committee working directly with staff shall be clearly defined.

5. The following personnel practices shall be observed:

a. the Division of Licensing and Certification shall be notified promptly when there is a change of executive director within the period covered by a license, this notification shall include a statement of the qualifications of the new employee;

b. only such staff members who are qualified for the duties assigned by virtue of ability, health, age, emotional stability, education, and experience shall be employed and retained in employment;

c. a written statement shall be given to the employee at the time of employment setting forth the duties that will be assigned to him, to whom he is directly responsible, and conditions of employment, including official responsibilities, salary, hours of work, sick leave, retirement benefits, vacations, and the notice he will be expected to give or receive in case of resignation or release;

d. no person shall be required to do work in contravention of the labor laws of the state of Louisiana or the United States;

e. the governing body of the maternity home shall be encouraged to participate in a retirement plan for the employees, such coverage may be the home's own retirement plan or Retirement Survivors' and Disability Insurance.

#### D. Resources

1. The maternity home shall prepare an annual budget adequate to finance the program. The budget shall be prepared for the maternity home's fiscal year and shall clearly indicate all sources of income as well as anticipated expenditures.

2. The maternity home partially dependent on board payments to carry out its functions shall have sufficient funds available to continue care until other plans can be made for residents should contributions cease.

3. The governing body shall not assign to the personnel of the maternity home the responsibility for fund raising.

4. Soliciting funds shall be the responsibility of the governing body or of a special officer appointed for this purpose.

#### E. Auditing of Accounts

1. Accounts of the maternity home shall be audited annually by an independent certified public accountant or by a public authority.

#### F. Personnel Plan

1. An executive director shall be employed whose qualifications include a basic year's training in an accredited school of social work, or three years of successful experience in a recognized social agency, or five years successful experience in closely allied fields such as nursing, education, or ministry.

2. A caseworker shall be employed who meets the following qualifications: completion of one basic year in an accredited school of social work and one year of experience in a family or children's agency. The experience may be waived if the facility employs a casework supervisor with

the same qualifications as the supervisor in a child placing agency.

3. A case aide or aides may be employed with the following qualifications: a B.A. or B.S. degree in social work or a related field. This person shall be closely supervised by the casework supervisor.

4. A full-time resident staff person shall be employed when the superintendent does not live at the home. The resident staff person's qualifications shall include:

a. a high school education;

b. at least two years successful experience in allied fields such as practical nursing, household management, housemother experience;

c. an ability to accept and work with expectant mothers;

d. an ability to supervise assistant resident staff persons; and

e. be over the age of 21.

5. Assistant staff person, with the following qualifications, shall be employed when the population requires it:

a. a high school education;

b. an ability to accept and work with expectant mothers; and

c. be over the age of 21.

6. There shall be on call at all times an employee who is a graduate nurse or practical nurse.

a. The graduate nurse must have a current license to practice nursing in the state of Louisiana.

b. The practical nurse must have a current license to practice in the state of Louisiana.

7. Sufficient clerical staff shall be employed to keep correspondence, records, bookkeeping system, and files current and in good order. Expectant mothers receiving care in the maternity home shall not be used in this capacity. Clerical staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

8. Sufficient domestic staff shall be employed so that the major and heavy household duties are not assigned to the expectant mothers or become the duties of the resident staff person. Domestic staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

9. All employees living or working within an institution shall be required to obtain a written statement from a physician certifying that the employee is free from venereal disease, tuberculosis, and other infectious or contagious disease. This statement shall be obtained prior to employment, or immediately thereafter and annually during employment.

10. Resident staff shall be provided with quarters which insure reasonable privacy and rest during hours off duty. In addition, provision shall be made for personal belongings and bathing and toilet facilities separate from those used by expectant mothers.

11. Foster homes which are used in lieu of a congregate home shall meet the standards outlined for foster homes in "Minimum Requirements for License of Child Placing Agencies", published by the Division of Licensing and Certification.

## G. Staff

1. There shall be on duty at all times one adult serving in the capacity of resident staff. In addition, an alternate person shall be on call. There shall be one adult on the staff designated as the assistant to the resident staff who will also serve as relief resident staff.

2. In small maternity homes, it may be necessary for one employee to serve in more than one capacity. When this practice is followed, the employee shall be well qualified by training and experience for the different duties assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:799 (April 2010).

### §6711. Ethical Practices

NOTE: This Section has been moved from LAC 67:I.1711.

A. The following code of professional ethics shall be observed:

1. respect for the confidential nature of information provided by expectant mother and other agencies. Divulging identifying information about the expectant mother or her baby to anyone other than professional social casework staff and judicial agencies is prohibited. Information may be provided to other social casework staff and judicial agencies only when necessary for planning for the mother or the baby's welfare. Information about the mother may be given to other professional persons such as physicians or attorneys with the mother's written permission. Honesty in all dealing with expectant mothers, with other organizations and the public, including the keeping of agreements made with each;

2. the fulfilling of any responsibility accepted by the maternity home from courts of law;

3. utilizing funds for the stated purposes of the maternity home;

4. honoring contracts and prompt payment of bills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:801 (April 2010).

### §6713. Social Services

NOTE: This Section has been moved from LAC 67:I.1713.

A. A social study shall be completed for every expectant mother accepted for care by the maternity home. The social study shall be completed by a caseworker on the maternity home's staff or by a caseworker of the referring agency. When she is accepted through correspondence or on an emergency basis, the expectant mother shall be interviewed by the maternity home caseworker within a week after arrival. An immediate interview however, is preferable.

#### B. Intake

1. The intake study shall include social information establishing that the expectant mother is in need of the services of the maternity home.

2. The following identifying information is essential: name, date of birth, nationality, religion, education, occupation, health history, physical appearance of mother, marital status, and home address.

3. The social worker shall discuss with the expectant mother the following:

a. the regulations of the maternity home and her responsibilities;

b. the services available to her through the maternity home and community;

c. agreement that while she is in the care of the maternity home she may plan either to keep or to release her baby. The narrative record shall clearly show that a full discussion was held with the expectant mother regarding alternatives. The expectant mother should understand that should she not surrender her child to the home, the home will release the child only to the mother or to a licensed agency.

4. The agreement shall be in writing when a charge for care is made.

#### C. Continuing Casework

1. Following admission, the social worker shall counsel with the expectant mother as often as her individual needs require. The caseworker will begin to establish a relationship in order to gain an understanding of the expectant mother's total situation and the meaning of the pregnancy for the expectant mother.

2. Interviewing shall be focused on the expectant mother's individual problems and on plans for the baby. In general, the treatment plan will be focused on preparing the expectant mother for a return to useful community life and providing her with information regarding the resources available in her local community.

3. The decision to surrender or take her baby should be made by the mother before, or at the time of discharge. Should the expectant mother desire postponement of her decision regarding surrender, the consideration of allowing more time shall be made on an individual basis by the social worker. In any event, adequate discharge plans shall be made.

4. The social worker shall know at the time of discharge what plans the expectant mother has for living arrangements, employment, or school. It is the social worker's responsibility to assist the expectant mother directly or through referral to other agencies when she needs help in these areas.

#### D. Records

1. A narrative record shall be maintained which incorporates the information required in Subsections A and B of this Section. Copies of correspondence, agreements, and other forms shall be filed in this folder. The confidential nature of these records shall be respected, and these records are for the use of professional casework staff only. Social records shall be accessible only to the appropriate staff and shall be maintained in locked files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:801 (April 2010).

### §6715. Care in the Home

NOTE: This Section has been moved from LAC 67:I.1715.

#### A. Health Aspects

1. Responsibility for the health supervision of the maternity home shall be placed in a licensed physician or a group of licensed physicians appointed by the governing body. A physician shall approve written procedures governing the following:

a. medications and treatment that may be given without specific orders from a licensed physician or by a physician designated by him;

- b. circumstances under which a physician shall be called;
- c. action to be taken in case of emergency;
- d. a special diet if required; and
- e. household tasks that may be required. The physician shall review annually the health practices within the maternity home and certify in writing that they meet the licensing requirements.

2. Unless the maternity home requires, prior to admission, a statement from a physician that the expectant mother is free from communicable diseases, the maternity home shall have an isolation facility available. The expectant mother admitted without the statement from the physician shall be placed in isolation until she has had a complete physical examination to determine her freedom from communicable diseases.

3. The expectant mother shall be placed immediately under medical supervision. She shall have a physical examination within a week after admission to the home and at least monthly prior to confinement and before discharge. Should she leave the home before she is medically discharged, this fact shall be recorded on her medical record.

4. Nourishing food, attractively served, shall be provided. The diet shall be planned in consultation with a nurse, or if a special diet, the physician in charge. Necessary changes in diet prescribed in individual cases by the physician shall be followed.

5. A complete medical record shall be maintained on each expectant mother when she delivers at the maternity home. The case worker or nurse is responsible for maintaining a record for each expectant mother who delivers in public or private hospitals. This record shall contain dates of visits to the medical facility and a summary of medical consultation. Delivery information on the infant shall be recorded. These records shall be maintained in locked files.

6. When an infant is admitted for care into the home's nursery, all standards for child caring institutions apply.

#### E. Program

##### 1. Regulations

a. The regulations of the maternity home shall not infringe on the expectant mother's privilege of writing and receiving uncensored mail and visits from her family.

b. The same food shall be served to the staff and expectant mothers when they dine together, except when special diets must be prepared for any of the expectant mothers.

c. A mother who wishes to give personal attention to her baby, such as bathing and feeding, shall be permitted to do so.

d. An expectant mother shall be allowed a choice of duties, insofar as possible.

##### 2. Recreation

a. A recreational program shall be provided which will meet the individual needs of the expectant mothers. This program shall consist of a well-stocked library, magazines, newspapers, games, radio or television, piano, and record players. It is desirable to encourage arts and crafts with proper leadership. There shall be provision for outdoor activities. The yard should provide for privacy and be equipped with comfortable outdoor furniture. Expectant mothers interested in community activities should be encouraged to participate.

#### 3. Education

a. Every effort shall be made to arrange continued education for girls under 16 and for older girls whose schooling has been interrupted. Vocational training when appropriate should be encouraged. Household duties should have an educational value.

#### 4. Religion

a. Expectant mothers shall have the privilege of attending the church of their choice. Religious services should be available in the maternity home to those expectant mothers wishing to attend. An expectant mother wishing consultation with her pastor shall be provided the opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:801 (April 2010).

### **§6717. Plant and Equipment**

NOTE: This Section has been moved from LAC 67:I.1717.

#### A. Maintenance

1. The building, grounds, and equipment shall be kept clean and in good repair.

B. Location. Local zoning ordinances should be followed.

#### C. Allocation of Space

1. The room assigned expectant mothers shall be clean, airy, and inviting. Each expectant mother shall have a separate bed, and there shall be at least 4 feet between beds. Each expectant mother shall have adequate closet and drawer space for personal possessions in the room assigned to her. There shall be toilet and bath facilities available in the ratio of one to six expectant mothers. Any maternity home established or rebuilt shall be designed for a maximum of not more than four girls to a room.

2. A recreation room for the exclusive use of the expectant mothers shall be provided.

3. A room insuring privacy where expectant mothers can visit with their families shall be provided.

4. An isolation room and bath for expectant mothers admitted prior to examination for communicable diseases shall be provided.

5. When facilities for delivery are provided in the maternity home, separate and properly equipped quarters approved by the home's physician shall be provided.

6. When the home has facilities for delivery, a recovery room shall be provided on the same floor as the delivery room unless an elevator is available.

7. Separate, private offices shall be provided for the casework staff when the offices are housed in the maternity home. Facilities for the use of a private telephone should be provided.

8. Living quarters separate from those occupied by the expectant mothers shall be provided for auxiliary staff (nursery attendants, domestic staff, and maintenance staff), if they are required to live in.

#### D. Safety Aspects

1. All requirements of the local state fire prevention and health authorities shall be met. An annual inspection by each of the authorities shall be requested by a designated authority of the maternity home and the report shall be submitted to the Division of Licensing and Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:802 (April 2010).

## **Chapter 69. Child Residential Care**

### **§6901. Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2698 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6903. Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998), LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2698 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:543 (August 2009), repealed LR 36:803 (April 2010).

### **§6905. Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2130 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2699 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6907. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2132 (November 1998), LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2701 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6909. Administration and Organization**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2132 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2701 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6911. Human Resources**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2135 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2704 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6913. Quality of Life**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2137 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2706 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6915. Direct Service Management**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2141 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2711 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6917. Treatment Planning**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2143 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2712 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

### **§6919. Physical Environment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2145 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2714 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:803 (April 2010).

#### **§6921. Emergency and Safety**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2147 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2716 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:000 (April 2010).

#### **§6923. Therapeutic Wilderness Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2147 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2717 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

#### **§6925. Controlled Intensive Care Facility or Unit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2720 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

#### **§6927. Core Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2260 (December 2006), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2722 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

#### **§6929. Residential Home Module**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.40:2151-2163, R.S.46:1401-1424, R. S.28:1-2, R.S.28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2735 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

#### **§6931. Direct Services Management**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.40:2151-2163, R. S.46:1401-1424, R. S.28:1-2, R. S.28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2738 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

#### **§6933. Physical Environment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 36:477, 40:2151-2163, R.S. 46:1401-1424, R.S. 28:1-2, R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2739 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

#### **§6935. Fee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 40:2151-2163, R.S. 46:1401-1424, R.S. 28:1-2, R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 36:804 (April 2010).

### **Chapter 71. Child Residential Care**

#### **§7101. Purpose**

A. It is the intent of the legislature to protect the health, safety, and well being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:804 (April 2010).

### §7103. Authority

#### A. Legislative Provisions

1. The State of Louisiana, Department of Social Services, is charged with the responsibility of developing and publishing standards for the licensing of child residential facilities (CRF).

a. The licensing authority of the Department of Social Services is established by R.S. 46:1401-1425 and R.S. 46:51 which mandate the licensing of all resident care facilities and resident placing agencies, including CRF). A CRF is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24 hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody. The age requirement may be exceeded as stipulated in R.S. 46:1403.1. which states that, "...notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(A)(1), a person housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a general education development (GED) course, and any other program offered by the residential home".

#### B. Penalties

1. As stipulated in R.S. 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75 nor more than \$250 for each day of such offense.

#### C. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights or well-being of residents is not imperiled. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to insure that the intent of the regulation has been carried out.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. The department shall document the reasons for granting the waiver. A waiver shall be granted for a period of one year or as specified by the secretary and will not be renewed if the basis for it no longer exists. If the provider has been granted a waiver by the department, the waiver will be identified on the survey report of any subsequent annual survey report.

#### D. Variance Request

1. The secretary of the department, in specific instances, may grant an exception to the standards

temporarily for the purposes of allowing emergency admittance of specific residents as long as the health, safety, and well-being of the staff and/or the health, safety, rights, and well-being residents is not imperiled. This variance shall not be granted if it would result in a substantial change to the program.

2. A request for a variance shall be made in writing and shall include a statement of the provisions for which the variance is being requested.

3. The request for a variance will be answered in writing and specify the period of time for which the variance is being granted. A variance may be granted for a length of time not to exceed 90 days, and may be renewed one time, for good cause shown, for an additional 90 day period not to exceed 180 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010).

### §7105. Definitions

#### A. As used in this Chapter:

*Abuse*—any one of the following acts which seriously endangers the physical, mental, or emotional health of the resident:

a. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident by a parent or any other person;

b. the exploitation or overwork of a resident by a parent or any other person; and

c. the involvement of the resident in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the resident's sexual involvement with any other person or of the resident's involvement in pornographic displays or any other involvement of a resident in sexual activity constituting a crime under the laws of this state.

#### *Affiliate*—

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof;

c. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

d. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

e. director of any such.

*Associated Person*—a provider's owner, officers, board members, volunteers, and/or any other such person who may be involved in some capacity with the work of the provider other than the provider's employees.

*Behavior Support*—the entire spectrum of activities from proactive and planned use of the environment, routines, and structure of the particular setting to less restrictive interventions such as positive reinforcement, verbal

interventions, de-escalation techniques, and therapeutic activities that are conducive to each resident's development of positive behavior.

*Behavior Support Plan*—a written document that addresses the holistic needs of the resident and includes the resident's coping strategies, de-escalation preferences, and preferred intervention methods.

*Child*—a person under 18 years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.

*Child Residential Facility (CRF)*—any place, facility or home operated by any institution, society, agency, provider, corporation, person or persons or any other group to provide full-time care (24 hour residential care) for four or more individuals under the age of 18 years, who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody. This includes community homes, group homes, and residential homes. This does not include any program licensed under Titles XIX or XX of the Social Security Act by the Department of Health and Hospitals.

*Complaint*—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any child who is residing in a CRF.

*Criminal Background Check*—the requirement of state law and federal funding rule for checking criminal records for certain offenses prior to employing an individual who will have access to a resident in a Child Residential Facility.

*Debriefing*—a process by which information is gathered from all involved parties after the use of personal restraints or seclusion that includes an evaluation of the crisis, documentation detailing the events leading up to the incident, and ways to avoid such incidents in the future.

*Department*—the Department of Social Services.

*Direct Care Worker*—a person counted in the resident/caregiver ratio, whose duties include the direct care, supervision, guidance, and protection of a resident. This does not include a contract service provider who provides a specific type of service to the operation for a limited number of hours per week or month or works with one particular child. This may include staff such as administrative staff that has the required background clearances and appropriate training that may serve temporarily as direct care staff.

*Human Service Field*—the field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience required for a job as specified on the job description for that position.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*Injury of Unknown Origin*—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the resident and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

*Legal Guardianship*—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the resident and the responsibility for the child's general welfare until he reaches the age of majority, subject to any child rights possessed by the resident's parents. It shall include the rights and responsibilities of legal custody.

*Legal Guardian*—the caretaker in a legal guardianship relationship. This could be the parent or any child placing agency representative.

*License*—any license issued by the Department of Social Services to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in La. R.S. 46:1453.

*Neglect*—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

*Personal Restraint*—a type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.

*Program Director*—the person with authority and responsibility for the on-site, daily implementation and supervision of the overall facility's operation.

*Provider*—any facility, organization, agency, institution, program, or person licensed by the department to provide services to children.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

*Related or Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

*Seclusion*—the placement of an individual against his or her will in a room where they are not allowed to voluntarily leave.



*Service Plan*—a written plan of action usually developed between the family, resident, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

*Substantial Bodily Harm*—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

*Time-Out*—a strategy used to teach individuals to calm themselves, during which a child is not given the opportunity to receive positive reinforcement and/or participate in the current routine or activity until he/she is less agitated.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

*Variance*—an exception granted temporarily for the purpose of emergency admittance of specific residents.

*Volunteer*—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the residents. Persons who visit the facility solely for providing recreational activities for the facility are not considered as volunteers.

*Waiver*—an exemption granted by the secretary of the department, or designee, from compliance with a standard that will not place the resident or staff member at risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010).

## **§7107. Licensing Requirements**

### **A. General Provisions**

1. New buildings shall be designed to appear physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density and population. A CRF shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the department.

3. All new construction or renovation of a facility requires approval from agencies listed in §7107.B.1 and must comply with the Louisiana Uniform Construction Code.

4. In addition all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA).

### **B. Initial Licensing Application Process**

1. An initial application for licensing as a CRF provider shall be obtained from the department. A completed initial license application packet for an applicant shall be submitted to and approved by department prior to an applicant providing CRF services. The completed initial licensing packet shall include:

- a. application and non-refundable fee;
- b. Office of Fire Marshal approval for occupancy;
- c. Office of Public Health, Sanitarian Services approval;

- d. city fire department approval, if applicable;
- e. city or parish building permit office approval, if applicable;
- f. local zoning approval, if applicable;
- g. copy of proof of current general liability and property insurance for facility;
- h. copy of proof of insurance for vehicle(s);
- i. organizational chart or equivalent list of staff titles and supervisory chain of command;
- j. program director résumé and proof of educational requirement;
- k. service plan manager résumé and proof of educational requirement;
- l. list of consultant/contract staff to include name, contact info and responsibilities;
- m. copy of program plan;
- n. copy of table of contents of all policy and procedure manuals;
- o. copy of evacuation plan;
- p. copy of house rules and regulations;
- q. copy of grievance process;
- r. a floor sketch or drawing of the premises to be licensed; and
- s. any other documentation or information required by the department for licensure.

2. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 10 working days to submit the additional requested information. If the department does not receive the additional requested information within the 10 working days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a CRF shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process. Once the department has determined the application is complete, the applicant will be notified to contact the department to schedule an initial survey. If an applicant fails to contact the department and coordinate the initial survey within 45 days of the notification, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a CRF shall submit a new initial licensing packet with a new initial licensing fee to re-start the initial licensing process.

### **C. Initial Licensing Survey**

1. Prior to the initial license being issued to the CRF, an initial licensing survey shall be conducted on-site at the CRF to assure compliance with all licensing standards. The initial licensing survey shall be an announced survey. No resident shall be provided services by the CRF until the initial licensing survey has been performed and the department has issued an initial license.

2. In the event the initial licensing survey finds the CRF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. In the event the initial licensing survey finds the CRF is noncompliant with any licensing laws or standards,

or any other required statutes, laws, ordinances, rules, or regulations that present a potential threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

4. In the event the initial licensing survey finds that the CRF is noncompliant with any licensing laws or standards, statutes, laws, ordinances, or rules but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue an initial license for a period not to exceed three months. The provider shall submit a corrective action plan to the department. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which corrections shall be completed. The department must approve the corrective action plan prior to issuing the initial license. If the department determines, prior to the expiration date of the initial license, that such noncompliance or deficiencies have been corrected, a license will be issued. If the department determines that such noncompliance or deficiencies have not been corrected, the license will expire and all operations shall cease. The provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

5. When issued, the initial CRF license shall specify the licensed bed capacity.

6. The license, as defined herein, must be conspicuously displayed at the facility. The most recent annual survey and follow-up survey, if any must be made available for inspection to any person requesting them.

7. Once a CRF has been issued a license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

8. The department shall remove any child or all children from any facility or agency when it is determined that one or more deficiencies exist within the facility that place the health and well being of the child or children in imminent danger. The child or children shall not be returned to the facility until such time as it is determined that the imminent danger has been removed.

9. Department staff shall be given access to all areas of the facility and all relevant files during any licensing or other survey. They shall be allowed to interview any provider staff or participant as necessary to conduct the survey.

10. If an applicant or member of his/her immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists.

**D. Fees**

1. The applicable licensing fee shall be submitted with the initial license application and any change of ownership or location. All fees shall be paid by certified check, business check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. Fee schedules (based on licensed capacity) are listed below:

4 to 6 Children	7 to 15 Children	16 or More Children
\$400	\$500	\$600

3. Other license fees include:

a. a replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. No replacement charge will be incurred when the request coincides with the regular renewal of a license;

b. a processing fee of \$5 for issuing a duplicate license with no changes.

**E. Renewal of License**

1. The license shall be renewed on an annual basis.

2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

a. Office of Fire Marshal approval for occupancy;  
 b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for facility; and

e. copy of proof of insurance for vehicle(s).

3. Prior to renewing the CRF license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CRF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing survey finds the CRF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed to 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department shall revoke the license.

**F. Notification of Changes**

1. The department shall be notified by the provider prior to making changes which have an effect upon the license, to include but not limited to: change of ownership,

program director, location, age range of residents served, usage of indoor and outdoor spaces.

2. When a provider changes location, it is considered a new operation and a new application and fee for licensure shall be submitted 30 days prior to the anticipated move. All items listed in Paragraph 7107.B.1 shall be in compliance for the new location. An onsite survey is required prior to change of location. In the event of a disaster, which requires a provider to evacuate, refer to §7121 Emergency Preparedness.

3. When a provider is initiating a change in ownership a written notice shall be submitted to the department. Within five working days of the change of ownership, the new owner shall submit a completed application, the applicable licensing fee and a copy of bill of sale or a lease agreement.

4. All new construction or renovation of a facility requires approval from agencies listed in §7107.B.1 and the department.

5. A license is not transferable to another person or location.

#### G. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied, revoked or not renewed for any of the following reasons:

- a. cruelty or indifference to the welfare of the residents in care;
- b. violation of any provision of the standards, rules, regulations, or orders of the department;
- c. disapproval from any agency whose approval is required for licensing;
- d. nonpayment of licensing fee or failure to submit a licensing application;
- e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;
- f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or
- g. any act of fraud such as falsifying or altering documents required for licensure.

2. Even if a facility is otherwise in substantial compliance with these standards, an application for a license may be denied, revoked or not renewed for any of the following reasons:

- a. the owner, director, officer, board of directors member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a resident of the facility has been convicted of or pled guilty or nolo contendere to any offense listed in LA R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttals presumption that such a conviction or plea exists;
- b. the provider, after being notified that an officer, director, board of directors member, manager, supervisor or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office

of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

c. failure of the owner, director or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

d. revocation or non-renewal of a previous license issued by a state or federal provider;

e. a substantial history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

f. failure to timely submit an application for renewal or to timely pay required fees; and/or

g. operating any unlicensed facility and/or program.

3. If a license is revoked, denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant. For the purpose of this section, "affiliate" means:

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof; and

c. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

4. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, director or administrator of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision to eligibility for employment. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

#### H. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of 24 months after the effective date of revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license

(revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

3. The disqualification period provided in this rule shall include any affiliate of the provider.

#### I. Appeal Process

1. If the department refuses to grant or renew a license, if a license is revoked, the procedure will be as follows.

a. The department shall notify the licensee, or applicant in writing of the denial or revocation and the reasons for that denial or revocation and the right of appeal.

b. The program director or owner may appeal this decision by submitting a written request with the reasons to the Secretary, Department of Social Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 15 days of the receipt of the notification in §7107.H.1 above.

c. The Division of Administrative Law shall set a hearing to be held within 30 days after receipt of such a request except as provided in the Administrative Procedures Act.

d. An administrative law judge shall conduct the hearing. Within 90 days after the date the appeal is filed, the administrative law judge shall notify the appellant in writing of the decision, either affirming or reversing the original decision. If the department's decision is upheld, the facility shall terminate operation immediately.

2. If the facility continues to operate without a license, the department may file suit in the district court in the parish in which the facility is located for injunctive relief.

#### J. Complaint Process

1. In accordance with RS 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint investigation will be initiated within 30 days.

2. All complaint surveys shall be unannounced surveys.

3. A written report of any noncompliance or deficiencies will be given to the provider. The provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on the areas of non-compliance cited but no later than 10 days from the date of receipt of the notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which corrections shall be completed. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

4. Except in cases alleging abuse or neglect, the complainant will be notified in writing of the results of the

complaint investigation conducted by the office of community services (OCS) residential licensing.

5. If, because of the nature of the allegations, state law or department policy requires that the complaint be handled by another office, agency or board (including another office, agency, or board within the department), the complaint will be referred to the appropriate office, agency, or board without delay. Upon such referral, except in cases involving abuse or neglect, the complainant will be notified, in writing, of the referral.

6. The complaint procedure shall be posted conspicuously in the facility including the name, address, and telephone number of the required department units to be notified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:807 (April 2010).

### §7109. Administration and Organization

#### A. General Requirements

1. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's functioning that impact on residents and to interview any staff member or resident. The department representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, department representatives shall be permitted to verify that no residents are present in that portion and that the private areas are inaccessible to residents. Any area to which residents have or have had access is presumed to be part of the facility and not the private quarters of the owner/operator.

2. The provider shall make any information that the provider is required to have under the present standards, and any information reasonably related to determination of compliance with these standards available to the department. The resident's rights shall not be considered abridged by this standard.

3. The provider accepting any resident who resides in another state shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including initial and annual approval by the following:

1. Office of Public Health, Sanitarian Services;

2. Office of the State Fire Marshal;

3. city fire department, if applicable;

4. local governing authority or zoning approval, if applicable; and

5. Department of Education, if applicable.

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable) and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of the provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and standards;

3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;

4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

5. designate a person to act as program director and delegate sufficient authority to this person to manage the facility;

6. formulate and annually review, in consultation with the program director, written policies and procedures concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the program director;

8. meet with designated representatives of the department whenever required to do so;

9. inform designated representatives of the department prior to initiating any substantial changes in the program, services or physical plant of the provider.

E. Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documentation identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or bylaws.

F. Accessibility of Program Director. The program director, or a person authorized to act on behalf of the program director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy and Goals. The provider shall have a written statement describing its philosophy and describing both long-term and short-term goals.

H. Policies and Procedures. The provider shall have written policies and procedures approved by the owner or governing body that address, at a minimum, the following:

a. abuse and neglect;

b. admission and discharge;

c. behavior support and intervention program;

d. complaint process;

e. confidentiality and retention of resident records;

f. emergency and safety;

g. grievance process;

h. human resources;

i. incidents;

j. medication management;

k. provider services;

l. quality improvement;

m. resident funds;

n. rights; and

o. recordkeeping.

I. House Rules and Regulations. The provider shall have a clearly written list of rules and regulations governing conduct for residents in care and shall document that these rules and regulations are made available to each staff member, resident and, where appropriate, the resident's legal guardian(s).

J. Representation at Hearings. When required by law, the provider shall have a representative present at all judicial, educational or administrative hearings that address the status of a resident in care of the provider. The provider shall ensure that the resident is given an opportunity to be present at such hearings, unless prohibited by the resident's legal guardian or by his/her service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:810 (April 2010).

## §7111. Provider Responsibilities

### A. Human Resources

1. Policies and Procedures. The provider shall have written policies and procedures that include:

a. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members to include contract services and volunteers;

b. written job descriptions for each staff position including volunteers;

c. health screening of all staff in accordance with public health guidelines to include screening for tuberculosis (TB) and communicable diseases;

d. an employee grievance process;

e. abuse and neglect reporting procedures that require all employees to report any incidents of abuse or neglect whether that abuse or neglect is done by another staff member, a family member, a resident, or any other person; and

f. preventing discrimination.

### 2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

i. administrative;

ii. fiscal;

iii. clerical;

iv. housekeeping, maintenance and food services;

v. direct resident services;

vi. record keeping and reporting;

vii. social service; and

viii. ancillary services.

b. The provider shall ensure that all staff members are properly certified or licensed as legally required and appropriately qualified for their position.

c. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the trainings requirements.

d. The provider that utilizes volunteers on a regular basis shall be responsible for the actions of the volunteers. Volunteers shall be given a copy of their job description. Volunteers shall:

i. have orientation and training in the philosophy of the facility and the needs of residents and methods of meeting those needs;

ii. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in LAC 67:V:7111 5.d;

iii. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1;

iv. have three documented reference checks as required for regular paid staff.

### 3. Personnel Qualifications

a. Program Director—the program director shall meet one of the following qualifications:

i. a bachelor's degree in a human service field plus three years experience relative to the population being served. One year of administrative experience in social services may be substituted for two years of regular experience. A master's degree plus two years of social service experience may be substituted for the three years of experience. An alternative may be a bachelor of social work (BSW) degree or professional equivalent with three years experience working with residents, one year of which may be experience in administration; or

ii. a master's degree in health care administration or in a human service related field; or

iii. in lieu of a degree, six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

b. Service Plan Manager—the service plan manager shall have a master's degree in a human service field plus a minimum of one year with the relevant population.

c. Direct Care Worker—the direct care worker shall be at least 19 years of age and have a high school diploma or equivalency and at least two years post-high school job experience.

### 4. Personnel Job Duties

a. The program director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the agency;

iii. address areas of non-compliance identified by annual survey and complaint investigations;

iv. directing the program;

v. representing the facility in the community;

vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility during their absence;

vii. recruiting qualified staff and employing, supervising, evaluating, training and terminating employment of staff;

viii. providing leadership and carrying supervisory authority in relation to all departments of the facility;

ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of residents, making needed policy revision recommendations and assisting them in periodic evaluation of the facility's services;

x. preparing the annual budget for the governing body's consideration, keeping the body informed of financial needs, and operating within the established budget;

xi. supervising the facility's management including building, maintenance and purchasing;

xii. participating with the governing body in interpreting the facility's need for financial support;

xiii. establishing effective communication between staff and residents and providing for their input into program planning and operating procedures;

xiv. reporting injuries, deaths and critical incidents involving residents to the appropriate authorities;

xv. supervising the performance of all persons involved in any service delivery/direct care to residents; and

xvi. completing an annual performance evaluation of all staff. For any person who interacts with residents, a provider's performance evaluation procedures shall address the quality and quantity of their work.

b. The service plan manager shall be responsible for:

i. supervision of the implementation of the resident's service plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications;

iv. reviewing and approving quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, but the service plan manager shall also review the reports;

v. signing and dating all appropriate documents;

vi. ensuring that the resident receives a periodic review and review of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others and any behavior management plan;

vii. asserting and safeguarding the human and civil rights of residents and their families and fostering the human dignity and personal worth of each resident;

viii. serving as liaison between the resident, provider, family and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider in order to:

(a). assist staff in understanding the needs of the resident and his/her family in relation to each other;

(b). assist staff in understanding social factors in the resident's day-to-day behavior, including staff/resident relationships;

(c). assist staff in preparing the resident for changes in his/her living situation;

(d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through counseling concerned with problems associated with changes in family structure and functioning, and referral to specific services, as appropriate;

(e). help the family to participate in planning for the resident's return to home or other community placement;

(f). ensure that residents receive all necessary medical and dental care, if needed;

(g). ensure that all residents receive timely evaluations for specialized services and timely receipt of those specialized services identified.

c. The direct care worker shall be responsible for the daily care and supervision of the resident in the living group to which they are assigned which includes:

i. protecting residents' rights;

ii. handling separation anxiety and alleviating the stress of a resident in crisis;

iii. modeling appropriate behaviors and methods of addressing stressful situations;

iv. crisis management;

v. behavior intervention and teaching of appropriate alternatives;

vi. training the resident in good habits of personal care, hygiene, eating and social skills;

vii. protecting the resident from harm;

viii. handling routine problems arising within the living group;

ix. representing adult authority to the residents in the living group and exercising this authority in a mature, firm, compassionate manner;

x. enabling the resident to meet his/her daily assignments;

xi. participating in all staff conferences regarding the resident's progress in program evaluation of service plan goals and future planning;

xii. participating in the planning of the facility's program and scheduling such program into the operation of the living group under his/ her supervision;

xiii. maintaining prescribed logs of all important events that occur during his/her tour of duty regarding significant information about the performance and development of each resident in the group;

xiv. reporting emergency medical or dental care needs to the administrative staff in a timely manner; and

xv. reporting critical incidents to administrative staff in a timely manner.

#### 5. Applicant Screening

a. The provider's screening procedures shall address the prospective employee's qualifications as related to the appropriate job description.

b. Prior to employment, each prospective employee shall complete an employment application. The application/résumé shall contain complete information about an applicant's education, employment history, and criminal background, including any arrests or convictions.

c. Prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in RS 46:1414.1

d. Prior to employment, a Criminal Background Check will be conducted in the manner required by RS 15:587.1 and 46:51.2.

i. The provider shall have a written policy and procedure for obtaining a criminal background check on persons as required in R.S. 15:587.1 and 46:51.2.

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

iii. Contractors hired to perform work which does not involve any contact with residents shall not be required to have a criminal background check if accompanied at all times by a staff person if residents are present in the facility.

iv. Any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or nolo contendere plea.

#### 6. Health Screening

a. Upon offer of employment, all staff shall be required to obtain a statement of good health signed by a physician or physician's designee. A statement of good health dated within three months prior to offer of employment or within one month after date of employment is acceptable. A health statement is required every three years.

b. All persons prior to or at time of employment shall be free of tuberculosis in a communicable state as evidenced by:

i. a negative Mantoux skin test for tuberculosis;

ii. a normal chest X-ray if the aforementioned skin test is positive; or

iii. a statement from a licensed physician certifying that the individual is non-infectious if the chest X-ray is other than normal.

c. Any employee who has a positive Mantoux skin test for TB, in order to remain employed, shall complete an adequate course of therapy as prescribed by a licensed physician or shall present a signed statement from a licensed physician stating that therapy is not indicated.

#### 7. Orientation

a. The provider's orientation program shall include the following topics for all staff within 15 working days of the date of employment:

i. philosophy, organization, program, practices and goals of the provider;

ii. specific responsibilities of assigned job duties;

iii. administrative procedures;

iv. emergency and safety procedures including medical emergencies;

v. resident rights;

- vi. detecting and reporting suspected abuse and neglect;
- vii. infection control to include blood borne pathogens;
- viii. confidentiality; and
- ix. reporting incidents.

b. The provider's orientation program shall provide a minimum of 24 hours of training in the following topics for all direct care staff within one week of the date of employment:

- i. implementation of service plans to include a behavior plan, when clinically indicated;
  - ii. emergency and safety procedures including medical emergencies;
  - iii. detecting and reporting suspected abuse and neglect;
  - iv. resident rights;
  - v. reporting incidents;
  - vi. confidentiality;
  - vii. health practices;
  - viii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
  - ix. basic skills required to meet the dental and health needs and problems of the residents;
  - x. prohibited practices;
  - xi. behavior interventions to include crisis de-escalation and the management of aggressive behavior including acceptable and prohibited practices. No staff member shall be left unsupervised with residents until he/she has completed all required training;
  - xii. use of time out, personal restraints, and seclusion that is to include a practice element in the chosen method performed by a certified trainer. No staff member shall be left unsupervised with residents until he/she has completed all required training;
  - xiii. safe self-administration and handling of all medications including psychotropic drugs, dosages and side effects;
  - xiv. infection control to include blood borne pathogens;
  - xv. working with people with disabilities, attending to the needs of such residents in care, including interaction with family members with disabilities; and
  - xvi. use of specialized services identified in provider services section.
- c. All new direct care staff shall receive certification in CPR and First Aid within 45 days of employment. No staff member shall be left unsupervised with residents until he/she has completed all required training.
- d. All staff shall sign a statement of understanding certifying that such training has occurred.
- e. No staff member shall be left unsupervised with residents until he/she has completed all required training.

#### 8. Annual Training

- a. The provider shall ensure that all staff receives training on an annual basis in the following topics:
  - i. administrative procedures and programmatic goals;
  - ii. emergency and safety procedures including medical emergencies;
  - iii. resident rights;

- iv. detecting and reporting suspected abuse and neglect;
- v. infection control to include blood borne pathogens;
- vi. confidentiality; and
- vii. reporting incidents.

b. Direct care staff shall receive annual training to include but not be limited to the following topics:

- i. implementation of service plans;
- ii. detecting and reporting suspected abuse and neglect;
- iii. resident rights;
- iv. reporting incidents;
- v. prohibited practices;
- vi. health practices;
- vii. emergency and safety procedures including medical emergencies;
- viii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- ix. basic skills required to meet the dental and health needs and problems of the residents;
- x. behavior interventions to include crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;
- xi. use of time out, personal restraints, and, seclusion which is to include a practice element in the chosen method performed by a certified trainer;
- xii. safe self-administration and handling of all medication including psychotropic drugs, dosages and side effects;
- xiii. infection control to include blood borne pathogens;
- xiv. confidentiality;
- xv. working with people with disabilities, attending to the needs of such residents in care, including interaction with family members with disabilities;
- xvi. use of specialized services identified in Provider Services Section; and
- xvii. educational rights to include IDEA and Section 504 Accommodations.

c. All direct care staff shall have documentation of current certification in CPR and First Aid.

d. All staff shall sign a statement of understanding certifying that such training has occurred.

e. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

#### 9. Staffing Requirements

a. The provider shall ensure that an adequate number of qualified direct care staff is present with the residents as necessary to ensure the health, safety and well being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents. In addition to the required number of direct care staff, the provider shall employ a sufficient number of maintenance, housekeeping, administrative, support and management staff to ensure that direct care staff can provide direct care services.

i. The provider shall have at least one adult staff present for every six residents when residents are present



and awake. Providers of individual services (therapists, tutors, etc.) shall not be included in this ratio while providing said individualized services to a specific resident or residents. Management or other administrative staff can be included in this ratio only if they are exclusively engaged in providing direct supervision of the children.

ii. The provider shall have at least one adult staff present and awake for every 12 residents when residents are present and asleep. In addition to required staff, at least one staff person shall be on call in case of emergency. Providers of individual services (therapists, tutors, etc.) shall not be included in this ratio while providing said individualized services to a specific resident or residents. Management or other administrative staff can be included in this ratio only if they are exclusively engaged in providing direct supervision of the children.

iii. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

iv. The provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off duty time for live-in staff.

v. Six or more residents under two years of age shall have an additional direct care worker on duty when the residents are present to provide a staff ratio of one staff per every six residents under age two.

#### B. Record Keeping

##### 1. Administrative File

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

i. a written program plan describing the services and programs offered by the provider;

ii. organizational chart of the provider;

iii. all leases, contracts and purchase-of-service agreements to which the provider is a party;

iv. insurance policies. Every provider shall maintain in force at all times a comprehensive general liability insurance policy. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident in the course and scope of his/her employment;

v. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider;

vi. written documentation of all residents' exits and entrances from facility property not covered under summary of attendance and leave. Documentation must include, at a minimum, date, time and destination.

NOTE: The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

##### 2. Personnel File

a. The provider shall have a personnel file for each employee that shall contain, at a minimum, the following:

i. the application for employment, including the resume of education, training, and experience, if applicable;

ii. a criminal background check in accordance with state law;

iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;

iv. documentation of any state or federally required medical examinations or testing;

v. documentation of employee's orientation and annual training received;

vi. employee's hire and termination dates;

vii. documentation of current driver's license for operating provider or private vehicles in transporting residents;

viii. annual performance evaluations to include his/her interaction with residents, family, and other providers;

ix. personnel action, other appropriate materials, reports and notes relating to the individual's employment with the facility;

x. annual state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

c. The personnel file of staff shall be retained for at least three years after termination of employment.

##### 3. Accounting File

a. The provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

b. The provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

c. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

d. The provider shall have sufficient space, facilities and supplies for providing effective accounting record keeping services.

##### 4. Resident Record

a. Active Record. The provider shall maintain a separate active record for each resident. The records shall be maintained in an accessible, standardized order and format. The records shall be current and complete and shall be maintained in the facility in which the resident resides and readily available to facility staff. The provider shall have sufficient space, facilities, and supplies for providing effective storage of records. The records shall be available for inspection by the department. Each record shall contain at least the following information:

i. resident's name, date of birth, Social Security number, previous home address; sex, religion, and birthplace of the resident;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

iv. proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental

Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

v. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

vi. name, address, and telephone number of a physician and dentist to be called in an emergency;

vii. resident's authorization for routine and emergency medical care;

viii. the pre-admission assessment and admission assessment. If the resident was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

ix. resident's history including family data, educational background, employment record, prior medical history and prior placement history;

x. a copy of the physical assessment report;

xi. reports of assessments and of any special problems or precautions;

xii. individual service plan, updates, and quarterly reviews;

xiii. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;

xiv. reports of any incidents of abuse, neglect, or incidents, including use of time out, personal restraints, or seclusion;

xv. a summary of attendance and leaves from the provider;

xvi. a summary of court visits;

xvii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts and feedback from the family;

xviii. a record of all personal property and funds, which the resident has entrusted to the facility;

xix. reports of any resident grievances and the conclusion or disposition of these reports;

xx. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining the his/her rights regarding personal funds, and the right to examine his/her record;

xxi. all signed informed consents; and

xxiii. a discharge summary.

b. Confidentiality and Retention of Resident Records

i. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as custodian, shall secure records against loss, tampering or unauthorized use or access.

ii. The provider shall maintain the confidentiality of all residents' records to include all court related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the resident and his/her family and

shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to other residents in the facility or any other unauthorized person.

iii. When the resident is of majority age and not interdicted, a provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

iv. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

v. The provider shall, upon written authorization from the resident or his/her legal guardian(s), make available information in the record to the resident, his/her counsel or the resident's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

vi. The provider may use material from the resident's records for teaching and research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her legal guardian(s).

vii. All records shall be retained and disposed of in accordance with state and federal laws.

viii. The facility must maintain the original records in an accessible manner for a period of five years following the death or discharge of a resident.

ix. In the event of a change of ownership, the resident records shall remain with the facility.

x. If the facility closes, the owner of the facility within the state of Louisiana shall store the resident records for five years.

xi. The provider is responsible for training all staff at least annually in confidentiality of information and records.

5. Staff Communication. The provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the resident. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of residents, and other information requiring continued action by staff. Documentation shall be legible, signed and dated by staff.

### C. Incidents

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating and analyzing all critical incidents.

a. The provider shall report any of the following critical incidents to the Child Protection Unit located in the parish in which the facility is located. The Child Protection

Unit shall be responsible for notifying the OCS Residential Licensing unit, when it is identified that a potential non-compliance of a licensing standard has occurred:

- i. abuse;
  - ii. neglect;
  - iii. injuries of unknown origin; or
  - iv. death.
- b. The provider shall report any of the following critical incidents to the OCS residential licensing unit:
- i. attempted suicide;
  - ii. serious threat or injury to the resident's health, safety or well-being, i.e., elopement or unexplained absence of a resident;
  - iii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or
  - iv. unplanned hospitalizations.
- c. The program director or designee shall:
- i. immediately verbally notify the legal guardian of the incident;
  - ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;
  - iii. submit the mandated critical incident report form within 24 hours of the incident to the appropriate unit as identified above based on the type of critical incident;
  - iv. submit a final written report of the incident, if indicated, to the appropriate unit identified above base on the type of critical incident as soon as possible but no later than five working days;
  - v. submit a final written report of the incident to the legal guardian as soon as possible but no later than five working days; and
  - vi. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;
  - vii. maintain copies of any written reports or notifications in the resident's record.
2. Other Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating and analyzing all documenting, reporting, investigating and analyzing all other accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents.
- a. The provider shall initiate a detailed report of any other unplanned event or series of unplanned events, accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents excluding those identified in Subparagraph C.1.a above within 24 hours of the incident. At a minimum, the incident report shall contain the following:
- i. date and time the incident occurred;
  - ii. a brief description of the incident;
  - iii. where the incident occurred;
  - iv. any resident or staff involved in the incident;
  - v. immediate treatment provided, if any;
  - vi. symptoms of pain and injury discussed with the physician;
  - vii. signature of the staff completing the report;
  - viii. name and address of witnesses;
  - ix. date and time the legal guardian was notified;
  - x. any follow-up required;
  - xi. preventive actions to be taken in the future; and

xii. any documentation of supervisory and administrative reviews.

b. A copy of all written reports shall be maintained in the resident's record.

#### D. Abuse and Neglect

1. The provider shall have a written policy and procedure for detecting and reporting suspected abuse or neglect that:

- a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the child protection agency and applicable laws;
- b. ensures the resident is protected from potential harassment during the investigation;
- c. addresses when an examination by a medical professional is indicated;
- d. ensures that any staff member who abuses or neglects a resident will be disciplined;
- e. ensures the staff member involved in the incident does not work directly with the resident involved in the program until an internal investigation is conducted by the facility or the child protection unit makes an initial report;
- f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;
- g. ensures that confidentiality of the incident is protected.

2. Any case of suspected resident abuse or neglect shall be reported according to the guidelines outlined in Subparagraph C.1.a, Critical Incidents.

#### E. Grievance Process

1. The provider shall have a written policy and procedure, which establishes the right of every resident and the resident's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

- a. a formal process for the resident and the resident's legal guardian(s) to file grievances that shall include procedures for filing verbal, written or anonymous grievances;
- b. a formal appeals process for grievances;
- c. a formal appeals process for grievance in a timely manner not to exceed 10 days of the receipt of the grievance.

3. The provider shall document that the resident and the resident's legal guardian(s) are aware of and understand the grievance and complaint policy and procedure and have been provided a written copy.

4. The provider shall maintain a log documenting all verbal, written or anonymous grievances filed.

5. Documentation of any resident's or resident's legal guardian(s) grievance and the conclusion or disposition of these grievances shall be maintained in the resident's record. This documentation shall include any action taken by the provider in response to the grievance and any follow up action involving the resident.

#### F. Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

- a. systematic data collection and analysis of identified areas that require improvement;
- b. objective measures of performance;
- c. periodic review of resident records;
- d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time and identification of residents and staff involved in each incident; and
- e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

G. Family Involvement. The provider shall have written strategies to foster ongoing positive communication and contact between children and their families, their friend and others significant in their lives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010).

**§7113. Admission and Discharge**

A. Admission

1. Policies and Procedures

a. The provider shall have written policies and procedures that shall include, at a minimum, the following information regarding an admission to the facility:

- i. the application process and the possible reasons for rejection of an application;
- ii. pre-admission screening assessment;
- iii. the age and sex of residents to be served;
- iv. the needs, problems, situations or patterns best addressed by the provider's program;
- v. criteria for admission;
- vi. authorization for care of the resident;
- vii. authorization to obtain medical care for the child;
- viii. criteria for discharge;
- ix. procedures for insuring that placement within the program are the least restrictive alternative, appropriate to meet the resident's needs.

b. No resident shall be admitted unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children and the Interstate Compact on Mental Health. Proof of such prior compliance shall be obtained prior to admission and shall be kept in the resident's file.

c. When refusing admission to a resident, the provider shall notify the referring party of the reason for refusal of admission in writing. If his/her parent(s) or legal guardian(s) referred the resident, he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal of admission shall be kept in the provider's administrative file.

2. Pre-Admission Screening

a. The provider shall receive an assessment of the applicant prior to admission that identifies services that are necessary to meet the resident's needs and verifies that the resident cannot be maintained in a less restrictive environment within the community. This assessment shall be maintained in the resident's record. The initial screening shall assess the applicant's needs and appropriateness for admission and shall include the following:

i. Emergency/Unplanned Admission. The provider is required to obtain the following information in the event of an emergency admission:

- (a) current health status and any emergency medical needs, mental health and/or substance abuse issues;
- (b) allergies;
- (c) chronic illnesses or physical disabilities;
- (d) current medications and possible side effects;
- (e) any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan; and
- (f) proof of legal custody or placing agency agreement;

ii. Planned Admission. Information required within 3 business days:

- (a) allergies;
- (b) current medications and possible side effects;
- (c) other therapies or ongoing treatments;
- (d) current health status to include mental health and/or substance abuse issues;
- (e) any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan;
- (f) family information;
- (g) education information;
- (h) proof of legal custody or placing agency agreement; and
- (i) chronic illnesses or physical disabilities.

3. Admission Assessment

a. An admission assessment shall be completed within three business days of admission to determine the service needs and preferences of the resident. This assessment shall be maintained in the resident's record. Information gathered from this assessment shall be used to develop a service plan for the resident. Information gathered during the pre-screening assessment that is applicable can be used for the admission assessment and shall include the following:

- i. allergies;
- ii. current medications and possible side effects;
- iii. other therapies or ongoing treatments;
- iv. current health status;
- v. any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan; and
- vi. family history.

b. Within 30 days of admission, the provider shall evaluate the following information:

- i. mental health screening;
- ii. assessment of family functioning;
- iii. psychological, developmental, vocational or educational assessment, as appropriate (not over one year old); and
- iv. immunization record.

B. Service Plan

1. Within 15 days of admission, the provider, with input from the resident, his/her parents, if appropriate and legal guardian shall develop an interim service plan using information gathered from the pre-admission assessment and the admission assessment. This interim service plan shall include:

- a. the services required to meet the resident's needs;
- b. the scope, frequency, and duration of services;

- c. monitoring that will be provided; and
- d. who is responsible for providing the services, including contract or arranged services.

2. Within 30 days of admission, the provider shall ensure that a resident has an individual service plan developed that will be comprehensive, time limited, goal oriented and address the needs of the resident. The service plan shall include the following components:

- a. a statement of goals to be achieved for the resident and his/her family;
- b. plan for fostering positive family relationships for the resident, when appropriate;
- c. schedule of the daily activities including training/education for residents and recreation to be pursued by the program staff and the resident in attempting to achieve the stated goals;
- d. any specific behavior management plan;
- e. any specialized services provided directly or arranged for will be stated in specific behavioral terms that permit the problems to be assessed, and methods for insuring their proper integration with the resident's ongoing program activities;
- f. any specific independent living skills needed by the resident which will be provided or obtained by the facility staff;
- g. overall goals and specific objectives that are time limited;
- h. methods for evaluating the resident's progress;
- i. use of community resources or programs providing service or training to that resident, and shall involve representatives of such services and programs in the service planning process whenever feasible and appropriate. Any community resource or program involved in a service plan shall be appropriately licensed or shall be a part of an approved school program;
- j. any restriction to residents' "rights" deemed necessary to the resident's individual service plan. Any such restriction shall be expressly stated in the service plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the service plan, and the reasons less restrictive methods cannot be employed;
- k. goals and preliminary plans for discharge;
- l. identification of each person responsible for implementing or coordinating implementation of the plan.

3. The service plan shall be developed by an interdisciplinary team including, but not limited to, the following:

- a. service plan manager;
- b. representatives of the direct care staff working with the resident on a daily basis;
- c. the resident;
- d. the resident's parent(s), if indicated;
- e. the resident's legal guardian(s); and
- f. any other person(s) significantly involved in the resident's care on an ongoing basis.

4. All team participants shall sign the completed service plan.

5. The service plan shall be monitored by the team on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences

have changed. A team meeting shall be held at least quarterly.

6. The provider shall ensure that all persons working directly with the resident are appropriately informed of the service plan and have access to information from the resident's records that is necessary for effective performance of the employee's assigned tasks.

7. The provider shall document that the resident, parent(s), where applicable, and the legal guardian have been invited to participate in the planning process. When they do not participate, the provider shall document the reasons for nonparticipation.

8. All service plans including quarterly reviews shall be maintained in the resident's record.

#### C. Discharge

1. The provider shall have a written policy and procedure for all discharges. The discharge procedure shall include at least the following:

- a. projected date of discharge;
- b. responsibilities of each party (provider, resident, family) with regard to the discharge and transition process;
- c. transfer of any pertinent information regarding the resident's stay at the facility; and
- d. follow-up services, if any and the responsible party.

2. Emergency discharges initiated by the provider shall take place only when the health and safety of a resident or other residents might be endangered by the resident's further stay at the facility. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. When a resident is discharged, the provider shall compile a complete written discharge summary within 30 days of discharge. The discharge summary is to be kept in the resident's record and shall include:

- a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);
- b. the name, address and telephone number of the provider;
- c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;
- d. a summary of services provided during care including medical, dental and health services;
- e. a summary of the resident's progress and accomplishments during care;
- f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Service, LR 36:818 (April 2010).

### §7115. Resident Protection

#### A. Rights

##### 1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each resident's rights are guaranteed and protected.

b. None of the resident's rights shall be infringed upon or restricted in any way unless such restriction is

necessary to the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions medically necessary in the child's individual service plan and the extent and duration of those restrictions. The documentation shall be signed by provider staff, the child and the child's legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a resident to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Children with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 U.S.C. §12101 et seq., and regulations promulgated pursuant to the ADA, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Part 37; §504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and regulations promulgated pursuant thereto, including 45 C.F.R. Part 84. These include the right to receive services in the most integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

d. Each child shall be fully informed of these rights and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of children's rights, and when changes occur.

e. Each child's record shall contain a copy of the written acknowledgment, which shall be signed and dated by the program director, or designee, and the child and/or his or her legal guardian.

## 2. Privacy

a. A child has the right to personal privacy and confidentiality. Any records and other information about the child shall be kept confidential and released only with the child's or legal guardian's expressed written consent or as required by law.

b. A child shall not be photographed or recorded without the express written consent of the child and the child's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child.

c. A child shall not participate in research projects without the express written consent of the child and the child's legal guardian(s).

d. A child shall not participate in activities related to fundraising and publicity without the express written consent of the child and the child's legal guardian(s).

## 3. Contact with Family and Collaterals

a. A child has the right to consult freely and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. Special restrictions shall be imposed only to prevent serious harm to the child. The reasons for any special restrictions shall be recorded in the child's service plan and explained to the child and his or her family. The service plan manager

shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's service plan. No service plan shall restrict home visits without approval from the legal guardian.

b. A child has the right to telephone communication. The provider shall allow a child to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child's service plan. The service plan manager shall formally approve any restriction on telephone communication in a child's service plan. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's service plan. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child and the child's legal counsel.

c. A child has the right to send and receive mail. The provider shall allow children to receive mail unopened, uncensored and unread by staff unless contraindicated by the child's service plan. The service plan manager shall review this restriction every 30 days. No service plan shall restrict the right to write letters in privacy and to send mail unopened, uncensored and unread by any other person. Correspondence from a child's legal counsel shall not be opened, read or otherwise interfered with for any reason. Children shall have access to all materials necessary for writing and sending letters and, when necessary, shall receive assistance.

d. A child has the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of his/her choosing.

e. A child has the right to communicate freely and privately with state and local regulatory officials.

## 4. Safeguards

a. A child has the right to file grievances without fear of reprisal as provided in the grievances section of these standards.

b. A child has the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the child's legal guardians(s).

c. A child has the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

d. Children shall not be subjected to corporal punishment or cruel, severe, unusual, degrading or unnecessary punishment.

## 5. Civil Rights

a. A child's civil rights shall not be abridged or abrogated solely as a result of placement in the provider's program.

b. A child shall not be denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA).

## 6. Participation in Program Development

a. A child has the right to refuse treatment.

b. A child has the right to be treated with dignity in the delivery of services.

c. A child has the right to receive preventive, routine and emergency health care according to individual need and that will promote his or her growth and development.

d. A child has the right to be involved, as appropriate to age, development and ability, in assessment and service planning.

e. A child has the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services. The provider shall have a written policy of its religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child and the child's legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those children who desire to participate in religious activities in the community.

#### B. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff members. Staff members shall not be allowed to engage in any of the prohibited practices. Staff shall not promote or condone these prohibited practices between residents. This list shall include the following:

- a. use of a chemical or mechanical restraint;
- b. corporal punishment such as slapping, spanking, paddling or belting;
- c. marching, standing or kneeling rigidly in one spot;
- d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's life or health;
- e. denial or deprivation of sleep or nutrition except under a physician's order;
- f. denial of access to bathroom facilities;
- g. verbal abuse, ridicule or humiliation, shaming or sarcasm;
- h. withholding of a meal, except under a physician's order;
- i. requiring a resident to remain silent for a long period of time;
- j. denial of shelter, warmth, clothing or bedding;
- k. assignment of harsh physical work;
- l. punishing a group of residents for actions committed by one or a selected few;
- m. withholding family visits;
- n. extensive withholding of emotional response;
- o. denial of school services and denial of therapeutic services;
- p. other impingements on the basic rights of children for care, protection, safety, and security.

2. The resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

3. A list of prohibited practices shall be posted in the facility.

#### C. Behavior Support and Intervention Program

1. The provider shall have a behavior support and intervention program that:

- a. describes the provider's behavior support philosophy;
- b. safeguards the rights of residents, families, and staff;
- c. governs allowed and prohibited practices; and
- d. designates oversight responsibilities.

2. The provider shall have written policies and procedures that include, but are not limited to:

- a. a behavior support and intervention model consistent with the provider's mission;
- b. proactive and preventive practices;
- c. development of behavior support plans for residents;
- d. prohibited behavior intervention practices;
- e. restrictive practices, if any, that are allowed and circumstances when they can be used;
- f. physical interventions to be used, if any;
- g. informed consent of legal guardians for use of behavior support and interventions; and
- h. oversight process.

3. The provider shall develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior support plan for each resident receiving service. Information gathered from the pre-admission assessment and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

- a. identification of the resident's triggers;
- b. the resident's preferred coping mechanisms;
- c. techniques for self-management;
- d. anger and anxiety management options for calming;
- e. a review of previously successful intervention strategies;
- f. a summary of unsuccessful behavior management strategies;
- g. identification of the resident's specific targeted behaviors;
- h. behavior intervention strategies to be used;
- i. the restrictive interventions to be used, if any;
- j. physical interventions to be used, if any; and
- k. specific goals and objectives that address target behaviors requiring physical intervention.

4. An informed consent shall be obtained from the legal guardian for the use of any restrictive intervention.

5. There shall be a system in place that monitors the effectiveness of behavior support and interventions implemented.

6. All persons implementing physical interventions shall be trained and certified in behavior management under a national accredited method.

7. Participation by the resident, family and the resident's legal guardian(s) in the development and review of the behavior support plan shall be documented in the resident's record.

8. There shall be documentation of written consent to the behavior support plan by the resident and the resident's legal guardian(s) in the resident's record.

#### D. Time-Out

1. The provider shall have a written policy and procedure that governs the use of time-out to include the following:

a. any room used for time out shall be unlocked and the child shall, at all times, be free to leave if he or she chooses;

b. time-out procedures shall be used only when less restrictive measures have been used without effect. There shall be written documentation of less restrictive measures used in the resident's record;

c. emergency use of time-out shall be approved by the service plan manager or program director for a period not to exceed one hour;

d. time-out used in an individual behavior support plan shall be part of the overall service plan;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed two hours;

f. staff shall make periodic checks but at least every 15 minutes while the resident is in time-out;

g. the resident shall be allowed to return to the daily milieu at any time he/she has regained control of his/her behavior and is ready to participate in the group activities;

h. a resident in time-out shall not be denied access to bathroom facilities, water or meals;

i. after each use of time out, the staff shall document the incident and place in the resident's record;

j. an administrative review of the incident by the program director or other facility management staff will be conducted to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

#### E. Personal Restraints

1. The provider shall have a written policy and procedure that governs the use of personal restraints.

2. Use of personal restraint shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. Written documentation of any less restrictive measures attempted shall be documented in the resident's record.

4. A personal restraint shall be used only in an emergency when a resident's behavior escalates to a level where there is imminent risk of harm to the resident or others and other de-escalation techniques have been attempted without effect. The emergency use of personal restraints shall not exceed the following:

a. 30 minutes for a resident under nine years old; or

b. one hour for a resident nine years old or older.

5. The specific maximum duration of the use of personal restraints may be exceeded if a written continuation order before the end of the time period is obtained from a licensed psychiatrist, psychologist or physician with written clinical justification. The maximum time for use of personal restraints shall be 12 hours.

6. During any personal restraint, staff qualified in emergency behavior intervention must monitor the resident's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being. If available, staff that is not restraining the resident should monitor the resident. The resident must be released immediately when an emergency health situation occurs during the restraint. Staff must obtain treatment immediately.

7. The resident must be released as soon as the resident's behavior is no longer a danger to himself or others.

8. Restraints are only to be used by employees trained by a certified trainer under a program that is on a state-recognized list of nationally accredited programs. A single person restraint can only be initiated in a life-threatening crisis. Restraint by a peer is prohibited. Staff performing a personal restraint on a resident with specific medical conditions must be trained on risks posed by such conditions.

9. As soon as possible after the use of a personal restraint, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

10. After use of a personal restraint, the staff shall document the incident and place in the resident's record.

11. An administrative review of the incident by the program director or other facility management staff will be conducted to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

12. All incidents of personal restraint use shall be trended in the quality improvement program. A summary report on the use of personal restraints will be prepared and submitted to OCS residential licensing on a quarterly basis.

13. The resident's legal guardian and the OCS child protection unit in the parish in which the facility is located shall be notified if injury or death occurs during restraint use as outlined in the "Critical Incident" section.

14. In the event a death occurs during the use of a personal restraint, the facility shall conduct a review of its personal restraint policies and practices and retrain all staff in the proper techniques and in methods of de-escalation and avoidance of personal restraint use.

15. The resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

16. A list of prohibited practices shall be posted in the facility.

#### F. Seclusion

1. The provider shall have a written policy and procedure that governs the use of seclusion.

2. Use of seclusion shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. A resident will be placed in a seclusion room only in an emergency, when there is imminent risk of harm to the resident or others and when less restrictive measures have



been used without effect. Written documentation of the less restrictive measures attempted shall be documented in the resident's record. The emergency use of seclusion shall not exceed the following:

- a. 1 hour for a resident under nine years old; or
- b. 2 hours for a resident nine years old or older.

4. The specific maximum duration of the use of seclusion may be exceeded if a written continuation order before the end of the time period is obtained from a licensed psychiatrist, psychologist, or physician with written clinical justification. The maximum time for use of seclusion shall be 12 hours.

5. A staff member shall exercise direct physical observation of the resident at all times while in seclusion. During the seclusion, the staff must monitor the resident's physical well being for physical distress and take appropriate action, when indicated. The resident must be released immediately when an emergency health situation occurs during the seclusion and staff must obtain treatment immediately. The staff member must assess the resident's psychological well-being to insure that the intervention is being completed in a safe and appropriate manner and that the facility's policies and procedures are being upheld.

6. Seclusion used as part of an individual behavior support plan shall state the reasons for using seclusion and the terms and conditions under which seclusion shall be terminated or extended.

7. A resident in seclusion shall not be denied access to bathroom facilities, water or meals.

8. As soon as possible after the use of seclusion, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

9. After use of seclusion, the staff shall document the incident and place in the resident's record.

10. An administrative review of the incident by the program director or other facility management staff will be conducted to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

11. All incidents of seclusion shall be trended in the quality improvement program. A summary report on the use of seclusion will be prepared and submitted to OCS residential licensing on a quarterly basis.

12. The resident's legal guardian and the OCS child protection unit in the parish in which the facility is located shall be notified if injury or death occurs while the resident is in seclusion.

13. In the event a death occurs during the use of seclusion, the facility shall conduct a review of its seclusion policies and practices and retrain all staff in the proper use of seclusion and in methods of de-escalation and avoidance of seclusion.

14. The resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

#### 15. Seclusion Room

a. The resident shall be unable to voluntarily leave the room.

b. The room shall be large enough to allow easy access for staff to enter and exit and deep enough to ensure that the person being secluded cannot keep the door from closing by blocking it with the body or an object.

c. The ceiling of the seclusion room shall be unreachable and of solid construction.

d. If there are windows in the seclusion room, they should be locked with security locks and not allowed to open to the outside. Safety glass or plastic that cannot be broken shall be used for the panes. The view from the door observation window must not be obstructed.

e. The inside walls of the seclusion room shall be smooth and capable of withstanding high impact. Nothing can protrude or extend from the wall.

f. The door of the room shall be a security rated door, shall be able to withstand high impact and stress and shall swing outward to prevent a person from blocking the door from opening and thus barricading himself in the room.

#### G. Prohibited Personal Restraint and Seclusion Practices

1. The provider shall have a written list of prohibited practices by staff members. This list shall include the following:

a. pain compliance, slight discomfort, trigger points, pressure points, or any pain inducing techniques;

b. hyperextension of any body part beyond normal limits;

c. joint or skin torsion;

d. pressure or weight on head, chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression;

e. straddling or sitting on any part of the body;

f. any maneuver that puts pressure, weight or leverage into or on the neck or throat, on any artery or on the back of the person's head or neck;

g. any position or maneuver that obstructs or restricts circulation of blood or obstructs an airway;

h. any type of choking, hand chokes, arm chokes or sleeper hold;

i. any type of head hold where the head is used as a lever to control movement of other body parts or any type of full or half nelson or head lock;

j. any technique that involves mouth, nose, eyes or any part of the face or covering the face or body; and

k. any maneuver that involves punching, hitting, poking, pinching or shoving.

2. The resident and, where appropriate, the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:819 (April 2010).

#### §7117. Provider Services

##### A. Education

1. The provider shall have written policies and procedures to ensure that each resident has access to the most appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning.

2. The provider shall ensure that educational records from the resident's previous school are transferred to the resident's new educational placement timely.

3. A resident's service plan shall identify if the resident has any disabilities. Residents with disabilities shall be identified to the local education agency. If the resident is eligible for Individual with Disabilities Education Act (IDEA) services, the provider shall work with the legal guardian to ensure that he or she has a current educational evaluation, an appropriate Individualized Educational Plan (IEP), and surrogate parent to assist him or her in enforcing rights under the IDEA. If the resident is eligible for Section 504 accommodations, the provider shall work with the legal guardian.

4. If a resident is suspected of having a disability that would qualify him or her for special education services, the provider shall work with the legal guardian to ensure that a request for a special education evaluation is made and that the local education agency responds appropriately.

5. The provider shall work with the legal guardian and, where applicable, surrogate parent, to identify any deficiencies or problems with a resident's IEP or individualized accommodations plan (IAP), and to ensure that the resident's IEP or IAP is being implemented by the local education agency.

6. All residents of school age shall be enrolled in and attending the least restrictive available option of either a school program approved by the Department of Education or an alternative educational program approved by the local school board within 3 school days of admission to the facility.

7. The provider shall ensure residents have access to vocational training, GED programs and other alternative educational programming, if appropriate.

8. The provider shall coordinate residents' participation in school-related extra curricular activities, including any related fees or costs for necessary equipment.

9. The provider shall notify the resident's legal guardian(s) and, where applicable, the resident's surrogate parent, verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal from school. Notification shall be documented in the resident's record.

#### B. Milieu (Daily Living) Services

##### 1. Routines

a. The provider shall have a written schedule of daily routines for residents designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to residents and in the provision of adequate periods of recreation, privacy, rest and sleep.

b. Written schedules of daily routines shall be posted and available to the residents.

c. Daily routines shall be determined in relation to the needs and convenience of the residents who live together.

d. Whenever appropriate, the residents shall participate in making decisions about schedules and routines.

e. The program for daily routines shall be reviewed periodically and revised as the needs of the residents or living group change.

##### 2. Personal Possessions

a. The provider shall allow a resident to bring his/her personal possessions and display them, when appropriate.

b. Residents shall be allowed to acquire possessions of his/her own in accordance with the resident's service plan. The provider may, as necessary, limit or supervise the use of these items. Where restrictions are imposed, the resident shall be informed by staff of the reason of the restriction. The decision and reason shall be recorded in the resident's record.

c. Each resident shall have a secure place to store his/her personal property.

d. Possessions confiscated by staff will be documented to include:

i. signature of the staff and resident;

ii. date and time of confiscation; and

iii. date and time when returned to resident.

e. The provider shall be responsible for all confiscated items, including replacement if the item is damaged, lost or stolen while in the provider's possession.

f. A log of any valuable personal possessions to include any assistive devices, i.e., hearing aide, glasses, etc., shall be maintained by the provider.

##### 3. Clothing and Personal Appearance

a. The provider shall ensure that residents are provided with clean, well-fitting clothing appropriate to the season and to the resident's age, sex and individual needs. Whenever possible, the resident should be involved in selecting their clothing.

b. The provider shall have a written policy concerning any limitations regarding personal appearance. Any limitations should be related to maintaining the safety and well being of the residents receiving services.

c. Clothing and shoes shall be of proper size and adequate in amount to permit laundering, cleaning and repair.

d. Clothing shall be maintained in good repair.

e. Clothing shall belong to the individual resident and not be required to be shared.

f. All clothing provided to a resident shall remain with the resident upon discharge.

g. The provider shall ensure residents have access to adequate grooming services, including haircuts.

##### 4. Independent Life Training

a. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. Individualized independent life training goals shall be included in each resident's service plan.

b. This program shall include but not be limited to instruction in:

i. health and dental care, hygiene and grooming;

ii. family life;

iii. sex education including family planning and venereal disease counseling;

iv. laundry and maintenance of clothing;

v. appropriate social skills;

vi. housekeeping;

vii. use of transportation;

viii. budgeting and shopping;

ix. money management;

- x. cooking and proper nutrition;
- xi. employment issues, including punctuality and attendance;
- xii. use of recreation and leisure time;
- xiii. education, college, and/or long-term planning/life goals;
- xiv. accessing community services; and
- xv. parenting skills.

#### 5. Money

a. The provider shall permit and encourage a resident, as age appropriate, to possess his/her own money. The provider can give the resident an allowance. Older residents should be given the opportunity to earn additional money by providing opportunities for paid work, unless otherwise indicated by the resident's service plan, and reviewed every 30 days by the service plan manager;

b. money earned, or received either as a gift or an allowance by a resident, shall be deemed to be that resident's personal property;

c. limitations may be placed on the amount of money a resident may possess or have unencumbered access to when such limitations are considered to be in the resident's best interests and are duly recorded in the resident's service plan. The reasons for any limitations should be fully explained to residents and their families;

d. the provider shall, as appropriate to the resident's age and abilities, provide training in budgeting, shopping and money management;

e. resident's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the service team approves the restitution. The resident and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution;

f. the provider shall maintain a separate accounting of each resident's money; and

g. upon discharge, the provider shall provide the resident or legal guardian (s) any outstanding balance.

#### 6. Work

a. The provider shall have a written policy regarding the involvement of residents in work including:

i. description of any unpaid tasks required of residents;

ii. description of any paid work assignments including the pay for such assignments that are at least minimum wage;

iii. description of the provider's approach to supervising work assignments;

iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. The provider shall demonstrate that any resident's work assignments are designed to provide a constructive

experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the resident's service plan.

c. The provider shall assign, as unpaid work, age appropriate housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated. The provider shall ensure that all such employment practices comply fully with state and federal laws and standards. No resident shall be employed in any industrial or hazardous occupation, or under any hazardous conditions.

d. When a resident engages in off-grounds work, the provider shall be responsible for ensuring the resident has access to transportation and other supports needed to perform the work successfully. The provider shall document that:

i. such work is voluntary and in accordance with the resident's service plan;

ii. the service plan manager approves such work;

iii. the conditions and compensation of such work are in compliance with the Fair Labor Standards Act and other applicable state and federal laws;

iv. such work does not conflict with the resident's program.

#### C. Food Service

1. The provider shall ensure that a staff person has oversight of the total food service of the facility. This person shall be familiar with nutrition and food service management and shall be responsible for implementation and/or delegation of:

a. purchasing food according to the approved dietary menu;

b. oversight of storing and handling of food;

c. oversight of food preparation;

d. oversight of food serving;

e. maintaining sanitary standards in compliance with state and local regulations;

f. orientation, training and supervision of food service personnel to include proper feeding techniques as age appropriate;

g. maintaining a current list of residents with special nutritional needs;

h. having an effective method of recording and transmitting diet orders and changes;

i. recording information in the resident's record relating to special nutritional needs; and

j. providing information on residents' diets to staff.

2. The provider shall have written policies and procedures that ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council and doesn't deny any rights of the resident.

3. The provider shall maintain a master menu, including appropriate substitutions, which is written and approved annually, by a registered dietician.

a. The provider shall post the written menu at least one week in advance.

b. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

Residents shall be allowed to provide input into these menus.

c. Written menus and records of foods purchased shall be maintained on record for 60 days.

4. The provider shall ensure that any modified diet for a resident shall be:

a. prescribed by the resident's physician, approved by the registered dietician and identified in the resident's service plan; and

b. planned, prepared, and served by persons who have received instruction on the modified diet.

5. Condiments available appropriate for the ordered diet will be available.

6. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

7. Food provided to a resident shall be in accordance with his/her religious beliefs.

8. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's record.

9. There shall be no more than 14 hours between the last meal or snack and the first meal the following day.

10. The provider shall have written policies and procedures to ensure that all food shall be stored, prepared and served under sanitary conditions and in accordance with State Sanitary Code. The provider shall ensure that:

a. food served to the resident is in appropriate quantity; at appropriate temperatures; in a form consistent with the development level of the client; and with appropriate utensils;

b. food served to a resident not consumed is discarded;

c. food and drink purchased shall be of safe quality. Milk and milk products shall be grade A and pasteurized;

d. perishable foods shall be stored at the proper temperatures according to the local public health department to conserve nutritive values;

e. food preparation surfaces, utensils, and equipment shall be cleaned according to guidelines by the local public health department.

11. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

12. Food shall be stored separate from cleaning supplies and equipment.

13. Food storage areas are free of rodents, roaches and/or other pests and the provider shall take precautions to insure such pests do not contaminate food.

14. Persons responsible for food preparation shall not prepare food if they have symptoms of acute illness or an open wound.

#### D. Health Related Services

##### 1. Health Care

a. the provider shall have written policies and procedures for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources. They shall include, but are not limited to, the following:

i. ongoing appraisal of the general health of each resident;

ii. provision of health education, as appropriate;

iii. provision for keeping residents' immunizations current;

iv. approaches that ensure that any medical service administered will be explained to the resident in language suitable to his/her age and understanding;

v. an ongoing relationship with a licensed physician, dentist and pharmacist to advise the provider concerning medical and dental care;

vi. availability of a physician on a 24-hour, seven days a week basis;

vii. reporting of communicable diseases and infections in accordance with law;

viii. procedures for ensuring residents know how and to whom to voice complaints about any health issues or concerns.

##### 2. Medical Care

a. The provider shall arrange a medical examination by a physician for the resident within a week of admission unless the resident has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident is being transferred from another CRF and has had a physical examination within the last 12 months, a copy of this examination can be obtained to meet the requirement of the admission physical. The physical examination shall include:

i. an examination of the resident for any physical injury, physical disability and disease;

ii. vision, hearing and speech screening;

iii. a current assessment of the resident's general health.

b. The provider shall arrange an annual physical examination of all residents.

c. Whenever indicated, the resident shall be referred to an appropriate medical specialist for either further assessment or service, including gynecological services for female residents. The provider shall schedule such specialist care within 30 days of the initial exam. If the specialist's service needed is a result of a medical emergency, such care shall be obtained immediately.

d. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires service from a physician or hospital. The notification shall include the nature of the injury or illness and any service required.

e. Records of all medical examinations, follow-ups and services together with copies of all notices to legal guardian(s) shall be kept in the resident's record.

##### 3. Dental Care

a. The provider shall have written policies and procedures for providing comprehensive dental services to include:

i. provision for dental service;

ii. provision for emergency service on a 24-hour, seven days a week basis by a licensed dentist;

iii. a recall system specified by the dentist, but at least annually;

- iv. dental cleanings annually;
- v. training and prompting for residents to brush their teeth at least twice per day.

b. The provider shall arrange a dental exam for each resident within 90 days of admission unless the resident has received such an examination within six months prior to admission. The results of this examination shall be made available to the provider.

c. Records of all dental examinations, follow-ups and service shall be documented in the resident's record.

d. The provider shall notify the resident's legal guardian(s), verbally and/or in writing, within 24 hours when a resident requires or receives dental services of an emergency nature. The notification shall include the nature of the dental condition and any service required.

#### 4. Immunizations

a. The provider shall have written policies and procedures regarding immunizations to ensure that:

i. within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, ensuring the resident has received and will receive all appropriate immunizations and booster shots that are required by the Office of Public Health;

ii. the provider shall maintain a complete record of all immunizations received in the resident's record.

#### 5. Medications

a. The provider shall have written policies and procedures that govern the safe administration and handling of all medication, to include the following:

i. a system for documentation and review of medication errors;

ii. self-administration of both prescription and nonprescription medications;

iii. handling medication taken by residents on pass.

b. The provider shall have a system in place to ensure that there is a sufficient supply of prescribed medication available for each resident at all times.

c. The provider shall ensure that medications are either self-administered or administered by persons with appropriate credentials, training and expertise according to state law.

d. There shall be written documentation requirements for the administration of all prescription and non-prescription medication, whether administered by staff, supervised by staff or self-administered. This documentation shall include:

i. resident's name, date, medication administered;

ii. person administering medication, if other than resident;

iii. refusal to take medication; and

iv. reason for refusal; if applicable.

e. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

i. There shall be no standing orders for prescription medications.

ii. There shall be standing orders, signed by the physician, for nonprescription medications with directions from the physician indicating when he/she is to be contacted. The physician shall update standing orders annually.

iii. Copies of all written orders shall be maintained in the resident's record.

iv. Medication shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

v. Medications shall be reviewed and renewed on at least an annual basis.

f. Residents shall be informed of any changes to their medications, prior to administration of any new or altered medications.

g. Residents, staff, and, where appropriate, residents' legal guardian(s) are educated on the potential benefits and negative side effects of the medication and are involved in decisions concerning the use of the medication.

h. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the resident's record and the legal guardian(s) shall be notified verbally or in writing within 24 hours.

i. Discontinued and outdated medications and containers with worn, illegible or missing labels shall be properly disposed of according to state law.

j. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

i. External medications and internal medications shall be stored on separate shelves or in separate cabinets.

ii. All medication, including refrigerated medications, shall be kept under lock and key.

k. Psychotropic medications shall be reviewed and renewed at least every 90 days by a licensed physician.

#### 6. Professional and Specialized Services

a. The provider shall ensure that residents receive specialized services to meet their needs to include but not limited to:

i. physical/occupational therapy;

ii. speech pathology and audiology;

iii. psychological and psychiatric services;

iv. social work services;

v. individual, group and family counseling;

vi. substance abuse counseling/drug or alcohol addiction treatment.

b. The provider shall ensure that all providers of professional and special services:

i. record all significant contacts with the resident;

ii. provide quarterly written summaries of the resident's response to the service, the resident's current status relative to the service and the resident's progress;

iii. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;

iv. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement service plans;

v. provide resident assessments/evaluations as needed for service plan development and revision.

c. The provider shall ensure that any provider of professional or special services (internal or external to the facility) shall:

- i. have adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;
  - ii. have adequate space, facilities and privacy;
  - iii. have appropriate equipment, supplies and resources.
- d. The providers shall ensure that residents are evaluated for specialized services in a timely manner when a need is identified.

#### E. Recreation

1. The provider shall have a written policy and procedure for a recreation program that offers indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs of the residents and the composition of the living group.

2. The provider shall provide recreational services based on the individual needs, interests and functioning levels of the residents served. In planning recreational programs and activities, staff should assess the ages, interests, abilities and developmental and other needs of the residents served to determine the range of activities that are safe and appropriate. Residents shall be allowed time to be alone and to engage in solitary activities that they enjoy. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Recreational activities should be planned throughout the week.

3. Recreational objectives shall be included in each resident's service plan. Residents should be involved in planning and selecting activities as part of the individual service plan.

4. There shall be evidence that staff participating in recreation activities with the residents are appropriately informed of the resident's needs, problems, and service plans; communicate routinely with other direct service staff concerning residents; and have a means of providing in-put.

5. The provider shall provide adequate recreation and yard spaces to meet the needs and abilities of its clients regardless of their disabilities. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. The provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Unless the restriction is part of the facility's master behavior program plan, access to such community resources shall not be denied or infringed except as may be required as part of the resident's service plan. Any such restrictions shall be specifically described in the service plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

#### F. Transportation

1. The provider shall have written policies and procedures to ensure that each resident is provided with transportation necessary to meet his/her needs as identified the individualized service plan.

2. The provider shall have means of transporting residents in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance. All vehicles used for the transportation of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws. Preventative maintenance shall be performed on a monthly basis to ensure the vehicles are maintained in working order. The provider shall maintain documentation supporting adherence to vehicle maintenance schedules and other services as indicated.

4. Any staff member of the provider or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents shall maintain a current driver's license. The staff member operating the vehicle shall have the applicable type of driver's license to comply with the current motor vehicle laws.

5. The provider shall not allow the number of persons in any vehicle used to transport residents to exceed the number of available seats in the vehicle. The provider shall not transport residents in the back or the bed of a truck.

6. The provider shall conform to all applicable state motor vehicle laws regarding the transport of residents.

7. The provider shall ensure that residents being transported in the vehicle are properly supervised while in the vehicle and during the trip.

8. Vehicles used to transport residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents.

9. The provider shall ascertain the nature of any need or problem of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents.

10. The following additional arrangements are required for a provider serving residents with physical limitations:

a. a ramp device to permit entry and exit of a resident from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped residents. A mechanical lift may be utilized if a ramp is also available in case of emergency;

b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;

c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010).

### **§7119. Physical Environment**

#### **A. Physical Appearance and Conditions**

1. The provider shall maintain all areas of the facility accessible to residents in good repair and free from any reasonably foreseeable hazard to health or safety. All

structures on the grounds of the facility shall be maintained in good repair.

2. The provider shall have an effective pest control program to prevent insect and rodent infestation.

3. The provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on at least a weekly basis.

b. Trash collection receptacles shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades; cliffs, open pits, swimming pools, high voltage boosters or high-speed roads (45 mph or higher) shall be fenced or have natural barriers to protect residents.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of residents.

4. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

5. The provider shall have at least 75 square feet of accessible exterior space for each resident. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

#### B. Interior Space

1. The provider shall have policies and procedures to ensure that the facility maintains a safe, clean, orderly, and homelike environment.

2. All equipment, furnishings, and interior spaces shall be clean and maintained at all times. The provider shall have a program in place to monitor regular maintenance, preventative maintenance, cleaning and repair of all equipment and furnishings that is performed on a routine basis. Written documentation of the maintenance and cleaning program activities shall be maintained by administration to include cleaning schedules and reports of repairs.

3. The facility shall have sufficient living and program space available for residents to gather for reading, study, relaxation, structured group activities, and visitation. Space shall be available that allows for confidentiality for family visits, counseling, groups, and meetings. The living areas shall contain such items as television, stereo, age-appropriate books, magazines, and newspapers.

4. A facility shall have a minimum of 60 square feet of floor area per resident in living and dining areas accessible to residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

#### C. Dining Areas

1. The provider shall have dining areas that are permit residents, staff and guests to eat together and create a homelike environment.

2. Dining areas shall be clean, well lit, ventilated and equipped with dining tables and appropriate seating for the dining tables.

#### D. Bedrooms

1. Each resident shall have his/her own designated area for rest and sleep.

2. The provider shall ensure that each single occupancy bedroom space has a floor area of at least 80

square feet and that each multiple occupancy bedroom space has a floor area of at least 60 square feet for each occupant.

3. The provider shall not use a room with a ceiling height of less than 7 feet 6 inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 feet 6 inches are allowed in determining usable space.

4. The provider shall not use any room that does not have a window as a bedroom space.

5. Any provider that licenses beds subsequent to the effective date of these revised standards shall have bedroom space that does not permit more than two residents per designated bedroom space. All others shall not exceed four residents to occupy a designated space.

6. No resident over the age of 5 years shall occupy a bedroom with a member of the opposite sex.

7. The provider shall ensure that the age of residents sharing bedroom space is not greater than four years in difference unless contraindicated based on family dynamics.

8. Each resident shall have his/her own bed. A resident's bed shall be longer than the resident is tall, no less than 30 inches wide and shall have a clean, comfortable, nontoxic fire retardant mattress.

9. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident:

a. enuretic residents shall have mattresses with moisture resistant covers; and

b. sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

10. Each resident shall have a solidly constructed bed. Cots or other portable beds shall be used on an emergency basis only. The provider shall request a variance from the department if a cot or portable bed is to be in use for longer than one week.

11. The provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

12. Each resident shall have his/her own nightstand and dresser or other adequate storage space for private use.

13. There shall be a closet for hanging clothing in proximity to the bedroom occupied by the resident. For beds licensed after the effective date of these standards, there shall be a closet for hanging clothing within the bedroom or immediately adjacent to the bedroom. The closet shall not be within a bathroom.

14. The bedroom space for residents shall be decorated to allow for the personal tastes and expressions of the residents.

#### E. Bathrooms

1. The facility shall have an adequate supply of hot and cold water. The hot water source shall have a scald control mechanism in place.

2. The facility shall have toilets and baths or showers that allow for individual privacy. For beds licensed after the effective date of these standards, the following ratio shall be met. Whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed.

Lavatories	1:6 beds
Toilets	1:6 beds
Showers or tubs	1:6 beds

3. Bathrooms shall be so placed as to allow access without disturbing other residents during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, and soap.

5. Tubs and showers shall have slip proof surfaces.

6. Bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the residents' basic hygienic needs.

7. Each resident shall be provided personal hygiene items such as hairbrushes, toothbrushes, razors, etc.

8. Bathrooms shall be equipped to facilitate maximum self-help by residents. Bathrooms shall be large enough to permit staff assistance of residents, if necessary.

9. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall be maintained in good operating condition and conform to the requirements of the state sanitary code.

#### F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean up of all meals for all of the residents and staff regularly served. All equipment shall be maintained in proper working order.

2. The provider shall not use disposable dinnerware at meals except in an emergency situation unless the facility documents that such dinnerware is necessary to protect the health or safety of residents in care.

3. The provider shall ensure that all dishes, cups and glasses used by residents in care are free from chips; cracks or other defects and are in sufficient number to accommodate all the residents.

4. Animals, other than those used as service animals, shall not be permitted in food storage, preparation and dining areas.

G. Laundry Space. The provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

#### I. Administrative and Counseling Space

1. The provider shall provide a space that is distinct from residents' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff.

3. There shall be a covering on the window

#### J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents shall be appropriately designed to suit the size and capabilities of these residents.

2. The provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

#### K. Doors and Windows

1. All windows that can be opened shall have insect screening. This screening shall be readily removable in emergencies and shall be in good repair.

2. All closets, bedrooms and bathrooms shall have doors that allow egress from both sides.

3. Each window shall have a covering to provide privacy unless otherwise stipulated in the service plan.

#### L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

#### M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

3. The provider shall ensure that exterior areas are well lit when dark.

#### N. Heating, Ventilation and Air Conditioning (HVAC)

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and maximum 80 degrees fahrenheit in all indoor public and private areas in all seasons of the year;

2. All gas-heating units must bear the stamp of approval of the American Gas Association Testing Laboratories, Inc., or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.

3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room. The provider shall not use open flame heating equipment.

5. The use of portable heaters by the facility and residents is strictly prohibited, unless in an emergency situation.

6. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010).

### §7121. Emergency Preparedness

#### A. Emergency Plan

1. The provider shall have a written overall plan of emergency procedures that shall provide for the following:

a. the evacuation of residents to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations and to alternate locations within the city and long distance evacuations;

b. training of staff and, as appropriate, residents in preventing, reporting and responding to fires and other emergencies;

c. training of personnel in their emergency duties and the use of any fire fighting or other emergency equipment in their immediate work areas;



d. providing adequate staffing in the event of an emergency;

e. ensuring access to medication and other necessary supplies or equipment.

**B. Drills**

1. The provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day.

2. The provider shall make every effort to ensure that staff and residents recognize the nature and importance of fire drills.

**C. Notification of Emergencies.** The provider shall immediately notify OCS residential licensing, other appropriate agencies and the resident's legal guardian of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

**D. Access to Emergency Services**

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

3. The provider shall ensure direct care staff can access emergency services at all times.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Service, LR 36:830 (April 2010).

**§7123. Safety Program**

**A. Policies and Procedures**

1. The provider shall have policies and procedures for an on-going safety program that includes continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all incidents.

**B. General Safety Practices**

1. The provider shall not possess or maintain or permit any other person to possess or maintain any firearm or chemical weapon in the living units of the facility.

2. The provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff and visitors. All hazardous chemicals shall be stored in compliance with public health guidelines.

3. The provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport residents.

4. The provider shall prohibit the use of candles in the facility.

5. Power-driven equipment used by the provider shall be safe, and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall allow residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Service, LR 36:831 (April 2010).

Kristy H. Nichols  
Secretary

1004#027

**RULE**

**Department of Social Services  
Office of Family Support  
and  
Office of Community Services**

**Residential Licensing—Disqualification  
(LAC 48: I Chapter 88 and  
LAC 67:III.Chapter 73, and V.Chapters 61-19)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services (DSS), Office of Family Support (OFS) and Office of Community Services (OCS), promulgated rules in the *Louisiana Administrative Code* (LAC) Title 48, Part I, Subpart 3, Chapter 88, Adult Residential Care Licensing, Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 61-69, Residential Licensing pursuant to the general rule-making authority of the department under R.S. 46:51 and the specific rule-making authority over child care facilities and child placing agencies granted by the Child Care Facility and Child-Placing Agency Licensing Act, R.S. 46:1401-1426, and the specific authority to create rules for transitional living granted by the Transitional Youth Residence Act, R.S. 46:1451-1455.

State licensing regulations for child care facilities provided no disqualification period for licensees who have had a prior license revoked for failure to comply with State laws and regulations governing facilities providing out-of-home care for children and elderly or infirmed adults. This lack of specific disqualification periods had allowed substandard facilities to take temporary remedial action and reapply for a new license immediately following revocation of the previous one.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Information**

**Subpart 3. Licensing and Certification**

**Chapter 88. Adult Residential Care Home**

**§8807. Denial, Revocation or Nonrenewal of License,  
Appeal Procedure**

A. - D.3. ....

E. Disqualification From Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

- iii. with respect to a natural person:
  - (a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;
  - (b). any partnership, together with any or all its partners, in which that person is a partner; and
  - (c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
  - iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or
  - v. director of any such adult residential care home.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

- i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;
- ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or
- iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

## 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2328 (December 1998), amended by the Department of Social Services, Office of Family Support, LR 36:831 (April 2010).

## Part III. Family Support

### Subpart 21. Child Care Licensing

#### Chapter 73. Day Care Centers

#### Subchapter A. Licensing Class "A" Regulations for Child Care Centers

#### §7303. Procedures

A. - F.7. ...

G. Disqualification From Application

1. Definitions, as used in this Section:

*Affiliate*—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such day care center.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

## 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:832 (April 2010).

## §7359. Procedures

A. - H. ...

### I. Disqualification from Application

#### 1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such day care center.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

## 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective

date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 September 1992, LR 26:1636 (August 2000), repromulgated by the Office of Family Support, LR 33:2771 (December 2007), amended LR 36:3333 (February 2010), LR 36:833 (April 2010).

## **Part V. Community Services**

### **Subpart 8. Residential Living**

#### **Chapter 61. Emergency Shelter**

##### **§6103. Organization and Administration**

A. - C. 3.a. ...

D. Disqualification from Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any

mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such emergency shelter.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the

disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

#### **2. Disqualification of Facility and Provider**

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December

2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1544 (August 2009), amended LR 36:834 (April 2010).

## **Chapter 65. Transitional Living**

### **§6507. Application for Licensure**

A. - E. ...

F. Disqualification from Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such transitional living facility.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new

facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451-1455

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of Community Services, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the LR 35:1544 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:835 (April 2010).

## **Chapter 67. Maternity Homes**

### **§6703. Definitions**

A. ...

B. Disqualification from Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such maternity home.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription

until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

## 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1427

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office

of Community Services, LR 35:1570 (August 2009), amended LR 36:835 (April 2010).

## Chapter 69. Child Residential Care

### §6905. Procedures

A. - E.5. ....

F. Disqualification from Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a) that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b) any partnership, together with any or all its partners, in which that person is a partner; and

(c) any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such child residential care home.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

## 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent

application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2130 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2699 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1575 (August 2009), amended LR 36:330 (February 2010), LR 36:836 (April 2010).

## **§6955. Procedures**

A. - E. 5. ....

F. Disqualification from Application

1. Definitions, as used in this Section:

*Affiliate*—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such child residential care home.

*Department*—the Department of Social Services.

*Disqualification Period*—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*Effective Date*—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

*Facility*—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

*License*—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider*—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation*—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

### 2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836 (April 2010).

Kristy H. Nichols  
Secretary

1004#032

## **RULE**

### **Department of Social Services Office of Community Services**

State Central Registry—Residential Licensing  
(LAC 67:V.1103, 1105, 6503, 6705, 6955 and 7107)

The Department of Social Services, Office of Community Services, has adopted the Louisiana Administrative Code 67:V., Subpart 3, Child Protective Services, Chapter 11; and, Subpart 8, Residential Licensing, Chapters 65, 67, 69 and 71 effective January 1, 2010 pursuant to Act 903 of the 1997 Regular Session of the Louisiana Legislature; Act 593 of the 1999 Regular Session of the Louisiana Legislature; Act 567 of the 2003 Regular Session of the Louisiana Legislature; Acts 394 and 580 of the 2006 Regular Session of the Louisiana Legislature; and, Acts 47 and 388 of the 2009 Regular Session of the Louisiana Legislature.

The content of Subpart 3, Child Protective Services, Chapter 11, is substantially amended and reorganized. It affects the maintenance and release of records on investigations with justified/valid findings and in limited circumstances, inconclusive determinations on the state central registry; and, the maintenance of records for other investigation determinations by the Office of Community Services. The amendments to Subpart 8, Residential Licensing, Chapters 65, 67, 69 and 71 prohibits any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department from working in the facility if the individual's name is recorded on the state central registry for a justified/valid finding of abuse or neglect, unless the Risk Evaluation Panel determines that the individual does not pose a risk to children or as permitted as a result of the appeal process.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Office of Community Services**

#### **Subpart 3. Child Protective Services**

#### **Chapter 11. Administration and Authority**

#### **§1103. State Central Registry**

A. The Department of Social Services, Office of Community Services, establishes and will maintain a state central registry (SCR) of all reported cases of child abuse and neglect. The purpose of the SCR is to compile information of past reports of child abuse or neglect thus enabling child protection investigation staff to conduct a more complete evaluation of current reports of suspected abuse or neglect of children which may include a pattern of incidents. All records of reports of child abuse or neglect are confidential in accordance with R. S. 46:56.

B. The Louisiana Children's Code Article 616, requires the maintenance of a SCR of all reported cases. This includes records of investigations with justified/valid findings; unjustified/invalid findings in accordance with Children's Code Article 615 E(1); and, inconclusive findings for evaluating Court Appointed Special Advocates (CASA) volunteers in accordance with Children's Code Article 616 F. As part of the investigation, the Office of Community services child protection investigation staff shall provide to caretakers written notice of the SCR and the rules governing maintenance and expungement of SCR records.

1. Records of reports of non-fatality child abuse or neglect in families with determinations that the reports appear to be justified/valid will be maintained until the youngest child in the victim's family at the time of the investigation reaches the age of 18 or 10 years from the determination, whichever is longer, unless there is a subsequent report and investigation or alternative response family assessment involving the same perpetrator. In those cases, the justified/valid records will be maintained until the longest retention period for all the justified/valid determinations and assessments has elapsed. When after an investigation, the determination is made by the department that the report does appear to be justified/valid, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving the report shall be added to the state registry.

2. Records of reports of child fatalities in families and out of home settings determined to have been caused by child abuse or neglect will be maintained indefinitely. If there are subsequent investigations involving the same perpetrator, the justified/valid records will be maintained indefinitely.

3. Records of reports involving caretakers in restrictive care facilities, day care centers and registered family child day care homes that appear to be justified/valid will be maintained for 10 years, unless there is a subsequent report and investigation or alternative response family assessment involving the same perpetrator. In those cases, the justified/valid determinations will be maintained until the longest retention period for all the justified/valid determinations and assessments has elapsed.

4. Records on justified/valid determinations on foster families, when the child victim is a foster child, will be maintained indefinitely.

5. Information on reports that appear to be not justified/invalid or inconclusive used as a part of the basis of a later, related and justified/valid report shall become part of the file for the justified/valid report and will be maintained for the length of the time for the justified/valid report.

6. For the limited purpose of evaluating applicants for CASA volunteers, information on reports with inconclusive determinations are maintained on the SCR for the time prescribed in Louisiana Administrative Code 67:V.1105.

7. Any person whose name is included on the SCR with a justified/valid determination may file a rule to show cause against the Department of Social Services in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. The Office of Community Services will expunge the petitioner's name and other



identifying information upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to non-identifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the determination. During the three-year record retention period, such records bearing the non-identifying statistical information shall be sealed and accessible only to the financial auditors.

C. The Office of Community Services is authorized to release information maintained on the SCR in limited circumstances. This information will be released according to the following provisions.

1. The Office of Community Services will disclose information maintained on the SCR regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protection investigation, child protection alternative response, foster care home study, adoptive home study, or family services case following a child protection investigation in the requesting state, in accordance with R.S. 46:56(F)(4)(a). This information may also be released to private licensed child placing agencies located in Louisiana and in other states upon formal inquiry and verification of licensure. Information released to such agencies is confidential and shall not be released to sources outside the agency.

2. The Office of Community Services will conduct a search of the SCR for foster, adoptive and other home studies for the purpose of placement of children who are in the custody of the department or receiving services from the Office of Community Services.

3. The Office of Community Services will disclose limited information on a SCR records check when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's direct employment and supervision as a caregiver by the parent or person with the dependent. The written request for the information will be a signed and notarized request form that must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee, or prospective employee. The information that will be disclosed will include whether or not a record of a justified/valid finding of abuse or neglect was found which identifies the employee or prospective employee as a perpetrator. The information will be disclosed to the employer or prospective employer.

4. The Office of Community Services will disclose information in records of reports of child abuse or neglect when requested in writing from persons cited in R.S. 46:56(F)(10)(a). The information to be disclosed is limited to whether or not the department has a report that is currently open and under investigation or has been determined to be justified/valid, the status of the investigation, the determination made by the department and any action taken by the department. Action taken by the department will include the following: case under investigation, case closed, referred for services, continued services post investigation, and child taken into custody.

5. The Office of Community Services will disclose information regarding justified/valid reports in foster homes,

day care centers, restrictive care facilities and registered family child day care homes to the agency or sponsoring agency responsible for the licensure or registration of the facility.

6. The Office of Community Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:56(F)(1) and Children's Code Article 616 C. with a written request from a judge of a court exercising juvenile jurisdiction for a CASA applicant, with the applicant's written consent.

7. The Office of Community Services will provide SCR records checks for independent adoptions in accordance with the Louisiana Children's Code.

8. The Office of Community Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:51.2(A) for potential or current employees of the Department of Social Services when that individual's name is listed on the SCR as a perpetrator. If the individual requests a risk assessment evaluation, this information will also be disclosed to the Risk Evaluation Panel. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010.

9. The Office of Community Services will disclose information on justified/valid findings in accordance with R.S. 46:1414.1. This information will be released according to the following provisions.

a. The Office of Community Services will disclose information on justified/valid findings involving any owner, operator, current or prospective employee or volunteer of a child care facility licensed by the Department of Social Services when requested in writing by law enforcement to prosecute under R.S. 46:1441.1.

b. The Office of Community Services will disclose information on justified/valid findings involving any owner, operator, volunteer, current or prospective employee of a child care facility licensed by the Department of Social Services when requested in writing by the department's Child Care and Residential Licensing and Regulatory Sections when they have reasonable suspicion or are provided facts that indicate reasonable suspicion the individual's name is currently maintained on the SCR as a perpetrator. Reasonable suspicion is defined as licensing having or acquiring information containing specific and articulable facts that indicate that an owner, operator, current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified/valid finding currently recorded on the SCR. Upon receipt of the SCR clearance information that the individual is currently listed as a perpetrator, the appropriate child care or residential licensing and regulatory personnel shall immediately report the false information on the disclosure form and the SCR listing to the local district attorney.

c. If the owner, operator, current or prospective employee or volunteer of a child care facility licensed by the Department of Social Services discloses, or it becomes known, that their name is listed on the SCR as a perpetrator and requests a risk assessment evaluation, the Office of Community Services will disclose the information on the SCR to the Risk Evaluation Panel.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Articles 615 and 616, and Title XII, Adoption of

Children, Chapter 2, Article 1173, R.S. 14:403(H), R.S. 46:51.2(A) R.S. 46:56 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010).

#### **§1105. Maintenance of Information on Reports and Investigations**

A. The Office of Community Services will maintain records of investigations on reports of child abuse and/or neglect in families determined to be not justified/invalid for seven years after the determination of the finding. The records will be maintained for the exclusive use of child protection services to assist in future risk and safety assessments and shall not become part of the SCR. The information shall be confidential and will not be released to other persons or agencies outside of the Office of Community Services.

1. At the end of seven years from the date of the determination, the information will be expunged unless there have been subsequent reports and investigations involving the same perpetrator. When there are subsequent investigations with determinations of not justified/invalid or inconclusive, all records will be maintained until the youngest child in the victim's family at the time of the investigation reaches the age of eighteen or seven years from the date of the latest determination, whichever is longer.

2. When there are subsequent investigations involving the same perpetrator determined to be justified/valid and the information from the not justified/invalid report is used as a part of the basis for a later, related justified/valid report, the earlier not justified/invalid report shall become part of the file of such justified/valid report and shall cease to be a separate report, and thus becomes part of the SCR. All the information is maintained until the retention period for the justified/valid finding has elapsed.

B. The Office of Community Services will maintain records on reports of child abuse and/or neglect in families determined to be inconclusive for seven years after the determination of the finding unless there is a subsequent report and investigation involving the same perpetrator. If there is a subsequent investigation determined to be not justified/invalid or inconclusive, the information will be maintained until the youngest child in the alleged victim's family at the time of the investigation reaches the age of eighteen or seven years from the date of the latest determination, whichever is longer. When there are subsequent investigations determined to be justified/valid and information from the inconclusive investigation is used as a part of the basis for a later, related justified/valid determination, the inconclusive report shall become part of the file of such justified/valid report and shall cease to be a separate report. All the information is maintained until the longest retention period for the determinations has elapsed.

1. Information regarding a report and investigation determined to be inconclusive for an adult with an alleged involvement in the abuse/neglect may be released, with the client's written permission when they are applying to be a CASA volunteer, foster parent, adoptive parent, or caregiver pursuant to R.S. 46:56(F)(11).

2. Information regarding a report and investigation determined to be inconclusive may be released to law enforcement without a client's consent with a current criminal investigation involving acts against children.

C. The Office of Community Services will maintain information on reports and investigations of child abuse/neglect in foster homes, restrictive care facilities, day care centers, and registered family child day care homes determined to be not justified/invalid or inconclusive. These records will be maintained for seven years unless there is a subsequent report and investigation involving the same alleged perpetrator. In that case, all records will be maintained an additional seven years for the not justified/invalid or inconclusive determination.

D. Information on investigations determined to be client non-cooperation will be maintained for seven years unless there is a subsequent investigation involving the same perpetrator, in which case all records will be maintained until the retention period for the subsequent determination has elapsed.

E. Information on investigations determined to be unable to locate will be maintained for three years unless there is a subsequent investigation or alternative response family assessment involving the same perpetrator, in which case all records will be maintained until the retention period for the subsequent determination or assessment has elapsed.

F. Information on intake cases on families and out-of-home settings closed as not accepted for an investigation or an alternative response family assessment with current or previous Office of Community Services involvement are maintained for 18 months or the record retention period for the closed or active case, whichever is longer. If a subsequent not accepted report involving the same perpetrator is received within the 18 month retention period, all intake cases are maintained until the most recent not accepted report has been maintained for 18 months. If there are subsequent reports involving the same perpetrator accepted for investigation or alternative response family assessment, all not accepted reports are maintained until the longest retention period for the justified/valid determinations or assessments has elapsed.

G. Protective Service Alerts from other states are retained for one year from the month the information is entered into the agency computer tracking and management system when the protective service alert is not associated with an Office of Community Services case. Protective Service Alerts associated with an Office of Community Services case are retained for the retention period for the associated agency case.

H. Alternative Response Family Assessment records are retained for seven years from the date of closure. If there are subsequent investigations or alternative response family assessments involving the same perpetrator, all information will be maintained until the retention period for the subsequent determination has elapsed, however in no circumstance will the original assessment be maintained for less than seven years.

AUTHORITY NOTE: Promulgated in accordance with Act 593 of 1999 and Act 457 of 2004.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000), amended LR 31:1608 (July 2005), LR 36:840 (April 2010).

## Subpart 8. Residential Licensing

### Chapter 65. Transitional Living

#### §6503. Authority

A. ...

B. Conditions for Owners, Operators, Employees, and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a transitional living facility licensed by the Department of Social Services is prohibited from working in a transitional living facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified/valid finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by, or volunteering in a transitional living facility licensed by the department prior to January 1, 2010 shall be required to complete a SCR disclosure form on or before February 1, 2010. This information must be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified/valid determination of child abuse/neglect.

a. The owner, operator, current or prospective employee, or volunteer of the licensed transitional living facility shall complete, sign and date the SCR disclosure form. The current or prospective employee or volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her SCR disclosure form.

b. If a prospective employee or volunteer discloses, that his or her name is currently recorded as a perpetrator on the SCR, the transitional living facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the SCR disclosure and the transitional living facility representative/prospective employer will provide the prospective employee/volunteer, with the request for risk panel evaluation form.

c. Any current employee hired before January 1, 2010, that discloses, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect, will have 10 calendar days of the date of disclosure to request a risk assessment evaluation in accordance with LAC 67:I.305, or must be immediately terminated. As a condition of continued employment the employee shall be directly supervised by another staff person, who has not disclosed that their name appears with a justified/valid finding on the SCR. Under no circumstances may the staff person with the justified/valid finding be left alone and unsupervised with the residents pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the staff member may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses to appeal the finding, the employee must continue to have direct supervision by a staff person who has not disclosed that they have a justified/valid finding on the SCR at all times until a ruling by the Division

of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be immediately terminated.

d. Individuals currently providing volunteer services on January 1, 2010 who disclose, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect must be immediately discharged from volunteer duties at the transitional living facility until a Risk Evaluation Panel disposition or a Division of Administrative Law ruling that the individual does not pose a risk to children.

e. SCR disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Office of Community Services Residential Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the facility.

2. Any information received or knowledge acquired that a current owner, operator, volunteer, employee or prospective employee or volunteer has falsified a SCR disclosure form stating that they are not currently recorded as a perpetrator with a justified/valid determination of abuse or neglect shall be reported in writing to the child residential licensing program manager at the Department of Social Services, Office of Community Services, Residential Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

3. Any SCR disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a transition living facility licensing file, shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

4. Violations of any of the provisions of this Section will result in licensing enforcement actions up to and including revocation of the license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), LR 36:841 (April 2010).

### Chapter 67. Maternity Home

#### §6705. Application

A. ...

B. Conditions for Owners, Operators, Employees, and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a maternity home facility licensed by the Department of Social Services is prohibited from working in a maternity home facility if the individual discloses, or as the result of information known or received

by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified/valid finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by or volunteering in a maternity home facility licensed by the department prior to January 1, 2010 shall be required to complete a SCR disclosure form on or before February 1, 2010. This information must be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified/valid determination of child abuse/neglect.

a. The owner, operator, current or prospective employee, or volunteer of a maternity home facility shall complete, sign and date the SCR disclosure form. The current or prospective employee or volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her SCR disclosure form.

b. If a prospective employee or volunteer discloses that his or her name is currently recorded as a perpetrator on the SCR, the maternity home facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the SCR disclosure and the maternity home facility representative/prospective employer will provide the prospective employee/volunteer, with the request for risk panel evaluation form.

c. Any current employee hired before January 1, 2010, that discloses, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect will have 10 calendar days of the date of disclosure to request a risk assessment evaluation in accordance with LAC 67:I.305 or must be immediately terminated. As a condition of continued employment the employee shall be directly supervised by another staff person, who has not disclosed that their name appears with a justified/valid finding on the SCR. Under no circumstances may the staff person with the justified/valid finding be left alone and unsupervised with the residents pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the staff member may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses to appeal the finding, the employee must continue to have direct supervision by a staff person who has not disclosed that they have a justified/valid finding on the SCR at all times until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be immediately terminated.

d. Individuals currently providing volunteer services on January 1, 2010 who disclose, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a

justified/valid finding of abuse or neglect must be immediately discharged from volunteer duties at the maternity home facility until a Risk Evaluation Panel disposition or a Division of Administrative Law ruling that the individual does not pose a risk to children.

e. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Office of Community Services Residential Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the facility.

2. Any information received or knowledge acquired that a current owner, operator, volunteer, employee or prospective employee or volunteer has falsified a SCR disclosure form stating that they are not currently recorded as a perpetrator with a justified/valid determination of abuse or neglect shall be reported in writing to the Child Residential Licensing Program Manager at the Department of Social Services, Office of Community Services, Residential Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

3. Any SCR disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a maternity home facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

4. Violations of any of the provisions of this section will result in licensing enforcement actions up to and including revocation of the license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), LR 36:841 (April 2010).

## **Chapter 69. Child Residential Care—Class B**

### **§6955. Procedures**

A. - E.5. ...

F. Conditions for Owners, Operators, Employees, and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a child residential facility licensed by the Department of Social Services is prohibited from working in a child residential facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified/valid finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by, or volunteering in a child residential facility licensed by the department prior to January 1, 2010 shall be required to

complete a SCR disclosure form on or before February 1, 2010. This information must be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified/valid determination of child abuse/neglect.

a. The owner, operator, current or prospective employee, or volunteer of a child residential facility shall complete, sign and date the SCR disclosure form. The current or prospective employee or volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her SCR disclosure form.

b. If a prospective employee or volunteer discloses that his or her name is currently recorded as a perpetrator on the SCR, the child residential facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the SCR disclosure and the child residential facility representative/prospective employer will provide the prospective employee/volunteer, with the request for risk panel evaluation form.

c. Any current employee hired before January 1, 2010, that discloses, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect will have 10 calendar days of the date of disclosure to request a risk assessment evaluation in accordance with LAC 67:I.305 or must be immediately terminated. As a condition of continued employment the employee shall be directly supervised by another staff person, who has not disclosed that their name appears with a justified/valid finding on the SCR. Under no circumstances may the staff person with the justified/valid finding be left alone and unsupervised with the residents pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the staff member may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses to appeal the finding, the employee must continue to have direct supervision by a staff person who has not disclosed that they have a justified/valid finding on the SCR at all times until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be immediately terminated.

d. Individuals currently providing volunteer services on January 1, 2010 who disclose, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect must be immediately discharged from volunteer duties at the child residential facility until a Risk Evaluation Panel disposition or a Division of Administrative Law ruling that the individual does not pose a risk to children.

e. SCR disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department

licensing requirements and be available for review by Office of Community Services Residential Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the facility.

2. Any information received or knowledge acquired that a current owner, operator, volunteer, employee or prospective employee or volunteer has falsified a SCR disclosure form stating that they are not currently recorded as a perpetrator with a justified/valid determination of abuse or neglect shall be reported in writing to the child residential licensing program manager at the Department of Social Services, Office of Community Services, Residential Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

3. Any SCR disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

4. Violations of any of the provisions of this section will result in licensing enforcement actions up to and including revocation of the license to operate.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:842 (April 2010).

## **Chapter 71. Child Residential Care—Class A**

### **§107. Licensing Requirements**

A. - J.6. Reserved.

K. Conditions for Owners, Operators, Employees, and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a child residential facility licensed by the Department of Social Services is prohibited from working in a child residential facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified/valid finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by, or volunteering in a child residential facility licensed by the department prior to January 1, 2010 shall be required to complete a SCR disclosure form on or before February 1, 2010. This information must be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified/valid determination of child abuse/neglect.

a. The owner, operator, current or prospective employee, or volunteer of the licensed child residential facility shall complete, sign and date the SCR disclosure form. The current or prospective employee or volunteer shall

submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her SCR disclosure form.

b. If a prospective employee or volunteer discloses that his or her name is currently recorded as a perpetrator on the SCR, the child residential facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the SCR disclosure and the child residential facility representative/prospective employer will provide the prospective employee/volunteer, with the request for risk panel evaluation form.

c. Any current employee hired before January 1, 2010, that discloses, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect will have 10 calendar days of the date of disclosure to request a risk assessment evaluation in accordance with LAC 67:I.305 or must be immediately terminated. As a condition of continued employment the employee shall be directly supervised by another staff person, who has not disclosed that their name appears with a justified/valid finding on the SCR. Under no circumstances may the staff person with the justified/valid finding be left alone and unsupervised with the residents pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the staff member may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses to appeal the finding, the employee must continue to have direct supervision by a staff person who has not disclosed that they have a justified/valid finding on the SCR at all times until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be immediately terminated.

d. Individuals currently providing volunteer services on January 1, 2010 who disclose, or as the result of information known or received by the Department of Social Services, their name is currently recorded on the SCR with a justified/valid finding of abuse or neglect must be immediately discharged from volunteer duties at the child residential facility until a Risk Evaluation Panel disposition or a Division of Administrative Law ruling that the individual does not pose a risk to children.

e. SCR disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Office of Community Services Residential Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the facility.

2. Any information received or knowledge acquired that a current owner, operator, volunteer, employee or prospective employee or volunteer has falsified a SCR disclosure form stating that they are not currently recorded

as a perpetrator with a justified/valid determination of abuse or neglect shall be reported in writing to the Child Residential Licensing Program Manager at the Department of Social Services, Office of Community Services, Residential Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

3. Any SCR disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a child residential facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

4. Violations of any of the provisions of this section will result in licensing enforcement actions up to and including revocation of the license to operate.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:843(April 2010).

Kristy H. Nichols  
Secretary

1004#022

## RULE

### Department of Social Services Office of Family Support

Child Care Assistance Program—Automated  
Time and Attendance  
(LAC 67:III.5102, 5103, 5105, 5107, and 5109)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, (DSS) Office of Family Support (OFS), amended the Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 12, Child Care Assistance Program (CCAP), Chapter 51, Subchapter A, §§5102, 5103, 5105 and Subchapter B, §§5107, and 5109.

The department finds this amendment necessary at §§5102, 5103, 5107, and 5109 in order to add requirements to the Child Care Assistance Program for clients to participate in CCAP. In order to be eligible for CCAP, clients must participate in *Automated Child Care Time and Attendance*, an electronic system that provides accurate and timely capturing, tracking and reporting of time and attendance data utilizing finger imaging as the primary mechanism for capturing data. Some sections are being amended for clarification.

Section 5105 has been amended to include that children with special needs will be given priority status should it be necessary for a waiting list to be implemented.

Section 5107 has been amended to allow DSS to offer wage supplements to child care center staff to attend specific infant and toddler training and grants for centers to purchase infant and toddler materials and supplies and to offer an incentive to certain quality start centers with a collaborative agreement with a local educational agency to provide pre-kindergarten in the LA 4 pre-kindergarten.

Section 5109 has been amended to require that CCAP providers possess the minimum equipment necessary to operate the agency's system for capturing time and attendance data and to allow for DSS to pay greater than five days of absence in cases of a declared disaster or other special circumstances at the discretion of the assistant secretary.

## **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

##### **Subpart 12. Child Care Assistance**

##### **Chapter 51. Child Care Assistance Program**

##### **Subchapter A. Administration, Conditions of Eligibility, and Funding**

##### **§5102. Definitions**

*Automated Child Care Time and Attendance*—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance data. This system may utilize finger imaging or IVR (Interactive Voice Response) as a mechanism for capturing this data.

*Finger Imaging*—the measurement of physical characteristics of a finger for use in personal identification.

*Full-Time Care*—authorized child care calculated to be 30 or more hours per week that is paid in units of days or half days with a maximum of 22 days per month.

\* \* \*

*Household Designee (HD)*—an adult who is designated (in writing) by the CCAP Head of Household to drop off and/or pick up the child or children from an authorized CCAP provider. In the case of an in-home provider, this is the person to whom the provider may release the child or children when the provider leaves the home. Each household designee may be finger imaged for identity purposes.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006), LR 36:845 (April 2010).

##### **§5103. Conditions of Eligibility**

A. - D. ...

E. CCAP households must participate in the system designated by the agency for capturing time and attendance. This process may include finger imaging for the head of household and their household designees. The agency will determine the maximum number of household designees allowed on a CCAP case. Finger imaging is a requirement to participate in CCAP if the provider chosen by the client utilizes this as the mechanism for capturing time and attendance. Exceptions may be granted by the Executive Director of Family Assistance or his or her designee on a case by case basis.

F. If a client chooses care in an In-Home Provider setting, the client must possess a working landline telephone.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:845 (April 2010).

##### **§5105. Funding Availability**

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or "slots," that the CCDF can pay for based on available funding.

1. The children of STEP participants shall be categorically eligible for child care benefits. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with slots available for them as long as other eligibility factors are met and funding is available.

2. Children with special needs will be given priority status should it be necessary for a waiting list to be implemented. Children with special needs will be given priority status with slots available for them as long as other eligibility factors are met.

3. After all available slots are filled; a waiting list of cases or eligible children will be established and maintained for each parish in chronological order by date of application. As slots become available, cases will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children determined eligible will be added to the waiting list. At the agency's discretion additional enrollment periods may be designated.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000), LR 30:496 (March 2004), LR 36:845 (April 2010).

##### **Subchapter B. Child Care Providers**

##### **§5107. Child Care Provider**

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A centers, licensed Class A Head Start centers which provide before-and-after school care and/or summer programs, and child care centers licensed by the Department of Defense), a registered Family Child Day Care Home (FCDCH) provider, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before and after school care programs.

B. Before payments can be made to a Class A Center, licensed Class A Head Start center, or center licensed by the Department of Defense, a center must:

1. be licensed and active in the Child Care Assistance Program (CCAP) Provider Directory;

2. complete and sign a Class A or Department of Defense provider agreement as appropriate;

3. provide complete and accurate documentation and information required for direct deposit; and

4. participate in the system designated by the agency for capturing time and attendance and possess the minimum equipment necessary to operate the system which includes a working internet connection at the center. A landline telephone can be substituted only if internet connection is unavailable due to no provider of service at the level required.

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

i. caring for no more than six children, including his own children and any other children living at his residence, who are under age 13 or age 13 through 17 if disabled;

j. participation in the system designated by the agency for capturing time and attendance and possess the minimum equipment necessary to operate the system which includes a working internet connection or a landline telephone.

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

e. possession of or access to a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided;

f. participation in the system designated by the agency for capturing time and attendance.

E. Before payments can be made to a public or non-public school program, the provider must:

1. be certified and active in the CCAP Provider Directory;

2. complete and sign a school program provider agreement and Form W-9;

3. be regulated by the Board of Elementary and Secondary Education (BESE) if a public school or *Brumfield vs. Dodd* approved if a non-public school;

4. provide complete and accurate documentation and information required for direct deposit before payments can be made to that provider; and

5. participate in the system designated by the agency for capturing time and attendance and possess the minimum equipment necessary to operate the system which includes a landline telephone.

6. verify that all children funded under the program are eligible children as defined in Part 98 of Title 45 of the Code of Federal Regulations.

F. - G.2. ...

H.1. Quality incentive bonuses are available to:

a. eligible CCAP FCDCH providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund;

b. effective May 1, 2004, eligible CCAP providers who provide special care for children with special needs. This special needs care includes but it is not limited to specialized facilities/equipment, lower staff ratio, and

specialized staff. The amount of these special care needs incentive payments will be in accordance with 5109.B.1.b and 5109.B.2.b;

c. eligible child care centers that employ a teacher who attends specified infant/toddler training on a first-come, first-serve basis, on a limited basis due to one-time American Recovery and Reinvestment Act (ARRA) funding. A maximum of 10 centers per OFS region are eligible to receive a \$2000 grant for infant/toddler materials and equipment. However, if all applications have been received and one region has less than 10 qualified or interested centers and another region has additional qualified centers that wish to participate, resources may be moved to allow full participation and benefit from the ARRA funding. The center must meet requirements and participation targets to receive the grant. Centers must apply and meet the requirements to be eligible. Eligibility will be determined by the Division of Child Care and Early Childhood Education.

d. eligible teachers who work for an eligible center as described in Subparagraph H.1.c and elect to attend this specialized infant/toddler training. Up to four infant/toddler teachers employed by the eligible center may attend. Teachers can receive wage supplements up to \$1500 for participation but must meet requirements and participation targets to receive wage supplements. Teachers must apply and meet the requirements to be eligible. Eligibility will be determined by the Division of Child Care and Early Childhood Education.

2. These bonus amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

I. On a limited basis due to one-time American Recovery and Reinvestment Act (ARRA) funding, an incentive will be offered to certain Quality Start centers with a collaborative agreement with a local education agency to provide pre-kindergarten, specifically C. Picard Pre-kindergarten Program (LA 4). Payments will be available on a first-come, first-serve basis to up to three qualifying centers in each DSS region. The bonus will be equal to \$500 for each child included in the agreement. The collaborative agreement can be based on, but not limited to, the following criteria.

1. Head Start programs for which the school is the grantee do not qualify to be part of this program.

2. A center can receive no more than one such bonus for any state fiscal year.

3. The amount and number of centers receiving the bonus in each region may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:845 (April 2010).



**§5109 Payment**

A. - B.2b.Table. ...

3. The number of days or hours authorized for payment is based on the lesser of the following:

a. the time the child is actually in care each week;

or

b. the time the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program and/or conducting job search, each week, plus one hour per day for travel to and from such activity; or

c. effective July 1, 2004, the time the care is actually needed and available.

C. Payment is made to the eligible child care provider after services are rendered.

D. Payment may be made to more than one provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. Payment will not be made for absences of more than five days by a child in any calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month. A day of closure, on a normal operating day for the provider, is counted as an absent day for the child(ren) in the provider's care. If a child authorized for full-time care attends child care less than four hours in one day, this will be counted as a half day absent and half the daily rate will be paid to the provider. No absences will be authorized for part-time care.

Exception: In cases of a federal/state/locally declared emergency situation, or other special circumstances, the agency may at the discretion of the assistant secretary waive this absence policy.

F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:847 (April 2010).

Kristy H. Nichols  
Secretary

1004#025

**RULE**

**Department of Social Services  
Office of Family Support**

Child Care Licensing—State Central Registry  
(LAC 67:III 7302, 7304, 7355, and 7357)

In accordance with provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Family Support (OFS) amended the Louisiana Administrative Code (LAC) Title 67, Part III,

Subpart 21 Chapter 73, Sections 7302, 7304, 7355, and 7357.

Pursuant to Act 388 of the 2009 Regular Session of the Louisiana Legislature, the Department of Social Services has adopted this Rule which prohibits any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department from working in the facility if the individual's name is recorded on the state central registry for a justified (valid) finding of abuse or neglect, unless the Risk Evaluation Panel determines that the individual does not pose a risk to children or as permitted as a result of the appeal process. This Rule is necessary to ensure the safety of children in child care centers licensed by the department.

This Rule was effective by Emergency Rule effective January 1, 2010.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 21. Child Care Licensing**

**Chapter 73. Day Care Centers**

**Subchapter A. Licensing Class "A" Regulations for  
Child Care Centers**

**§7302. Authority**

A. - E. ...

F. Conditions for Owners, Operators, Employees and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a child care facility requesting licensure by the department and/or a child care facility licensed by the Department of Social Services is prohibited from working in a child care facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by or volunteering in a child care facility prior to January 1, 2010, licensed by the department shall be required to complete a state central registry disclosure form on or before February 1, 2010. This information shall be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.

a. The owner, operator, and current employee/volunteer of the licensed child care facility shall complete, sign and date the state central registry disclosure form. The current or prospective employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.

b. Any current employee/volunteer hired before January 1, 2010, who discloses that their name is recorded on the state central registry with a justified (valid) finding of abuse or neglect, or through reasonable suspicion, or as the result of information known or received by the Department of Social Services will have 10 calendar days from completion of the state central registry disclosure form to

request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately. As a condition of continued employment the employee/volunteer shall be directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the employee/volunteer may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the employee/volunteer shall be terminated immediately. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding within the required timeframe, the employee/volunteer shall continue to have direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be terminated immediately.

2. After January 1, 2010, any prospective owner, operator, or prospective employee/volunteer of a child care facility regulating licensure by the department and/or the child care facility requesting licensure by the department shall be required to complete a state central registry disclosure form. This information shall be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.

a. The prospective employee/volunteer of a child care facility requesting licensure by the department and/or licensed child care facility shall complete, sign and date the state central registry disclosure form. The prospective employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.

b. If a prospective operator, employee/volunteer discloses that his or her name is currently recorded as a perpetrator on the state central registry, the child care facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the state central registry disclosure and the child care facility representative/prospective employer will provide the prospective employee/volunteer with the request for risk panel evaluation form.

3. SCR disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Child Care Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a

minimum of one year from termination of the employee or volunteer from the center.

4. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee or prospective employee or volunteer has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to a Child Care Licensing manager at the Department of Social Services, Office of Family Support, Child Care Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

5. Any state central registry disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

6. Violations of any of the provisions of this Section shall result in licensing enforcement actions up to and including revocation of the license to operate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010).

#### §7304. Definitions

\* \* \*

*Department*—the Department of Social Services in Louisiana.

\* \* \*

*Director*—refers to executive director, center director, and/or director designee.

\* \* \*

*Child Care Staff*—all full or part-time paid or non-paid staff who perform routine services for the child care center and have direct or indirect contact with children at the center. Staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, driver, substitutes, and foster grandparents excluding extra-curricular personnel.

\* \* \*

*Employee*—all full or part-time paid center staff who perform services for the child care center and have direct or indirect contact with children at the center.

\* \* \*

*Reasonable Suspicion*—Child Care Licensing and Regulatory personnel has or acquires information containing specific and articulable facts indicating that an owner, operator, current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified (valid) finding currently recorded on the state central registry.

\* \* \*

*State Central Registry*—repository that identifies any individual reported to have a justified (valid) finding of

abuse or neglect of a child or children by the Office of Community Services.

\* \* \*

*Volunteer*—full or part-time non-paid center staff who perform services for the child care center and have direct or indirect contact with children at the center.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1111 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2758 (December 2007), amended LR 36:848 (April 2010).

### **Subpart 21. Child Care Licensing**

#### **Chapter 73. Day Care Centers**

#### **Subchapter B. Licensing Class "B" Regulations for Child Care Centers**

##### **§7355. Authority**

A. - E. ...

F. Conditions for Owners, Operators, Employees and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a child care facility requesting licensure by the department and/or a child care facility licensed by the Department of Social Services is prohibited from working in a child care facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

1. An individual owning, operating, employed by or volunteering in a child care facility prior to January 1, 2010, licensed by the department shall be required to complete a state central registry disclosure form on or before February 1, 2010. This information shall be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.

a. The owner, operator, current employee, and current employee/volunteer of the licensed child care facility shall complete, sign and date the state central registry disclosure form. The current employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.

b. Any current employee/volunteer hired before January 1, 2010, who discloses that their name is recorded on the state central registry with a justified (valid) finding of abuse or neglect, or through reasonable suspicion, or as the result of information known or received by the Department of Social Services will have 10 calendar days to request a risk assessment evaluation in accordance with LAC 67:1.305 or shall be terminated immediately. As a condition of continued employment, the employee/volunteer shall be directly supervised by another paid employee of the facility,

who has not disclosed that their name appears with a justified (valid) finding on the SCR. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the employee/volunteer may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the employee/volunteer shall be terminated immediately. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding within the required timeframe, the employee/volunteer shall continue to have direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be terminated immediately.

2. After January 1, 2010, any prospective owner, operator, or prospective employee/volunteer of the child care facility requesting/licensure by the department and/or the child care licensed by the department shall be required to complete a state central registry disclosure form. This information shall be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.

a. The prospective employee/volunteer of the licensed child care facility shall complete, sign and date the state central registry disclosure form. The prospective employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.

b. If a prospective operator, employee/volunteer discloses that his or her name is currently recorded as a perpetrator on the state central registry, the child care facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the state central registry disclosure and the child care facility representative/prospective employer will provide the prospective employee/volunteer with the request for a risk panel evaluation form.

3. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Child Care Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the center.

4. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee or prospective employee or volunteer has falsified

a SCR disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to a Child Care Licensing manager at the Department of Social Services, Office of Family Support, Child Care Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.

5. Any state central registry disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

6. Violations of any of the provisions of this section shall result in licensing enforcement actions up to and including revocation of the license to operate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010).

#### **§7357. Definitions**

A. The following are definitions of terms used in these minimum standards.

\* \* \*

*Child Care Staff*—all full or part-time paid or non-paid staff who perform routine services for the child care center and have direct or indirect contact with children at the center. Staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, driver, substitutes, and foster grandparents excluding extra-curricular personnel.

\* \* \*

*Department*—the Department of Social Services in Louisiana.

\* \* \*

*Employee*—all full or part-time paid child care staff who perform services for the child care center and have direct or indirect contact with children at the center.

\* \* \*

*Reasonable Suspicion*—Child Care Licensing and Regulatory personnel has or acquires information containing specific and articulable facts indicating that an owner, operator, current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified (valid) finding currently recorded on the state central registry..

\* \* \*

*State Central Registry*—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by the Office of Community Services.

\* \* \*

*Volunteer*—full or part-time non-paid child care staff who performs services for the child care center and have direct or indirect contact with children at the center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010), LR 36:850 (April 2010).

Kristy H. Nichols  
Secretary

1004#023

## **RULE**

### **Department of Social Services Office of the Secretary**

State Central Registry—Criminal Background  
and Risk Assessment Evaluation  
(LAC 67:I.201, 203, 301, 303, 305, 307, and 309)

The Department of Social Services, Office of the Secretary, has adopted the Louisiana Administrative Code (LAC) 67:I.Chapter 2. Criminal Background and State Central Registry Checks and Chapter 3. Risk Assessment Evaluation, effective January 1, 2010 pursuant to Acts 47 and 388 of the 2009 Regular Session of the Louisiana Legislature. This Rule is necessary to ensure the safety of children receiving services from employees of the department.

This Rule regulates conditions of employment for employees and potential employees with job duties within the Department of Social Services (DSS). The Rule provides an increased measure of protection and safety for minor children receiving services from the department by identifying specific individuals with certain past criminal convictions. The Rule expands the authority of DSS to require federal criminal background checks for certain prospective (new hire or transferring) DSS employees.

The Rule also establishes a risk evaluation panel, its duties and procedures and an appeals process for the panel's decision. The Rule prohibits the employment of employees and potential employees whose duties include investigation of child abuse or neglect, the supervisory or disciplinary authority over children, direct care of a child or performance of licensing surveys if the individual's name is recorded on the state central registry, unless a risk evaluation panel determines that the individual does not pose a risk to children. The risk assessment evaluation process will also be made available to any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department who discloses that he is currently recorded on the state central registry for a justified (valid) finding of abuse or neglect.

**Title 67**  
**SOCIAL SERVICES**

**Part I. Office of the Secretary**

**Subpart 1. General Administration**

**Chapter 2. Criminal Background and State Central Registry Checks**

**§201. Introduction and Purpose**

A. The Department of Social Services has a fervent commitment to protect children by preventing the employment of an individual by the department who has specific past criminal convictions, in certain positions that provide access to children and/or has been determined to be a perpetrator of abuse or neglect of a child.

B. In order to enhance the state's ability to protect children, the Louisiana Legislature enacted laws which provide for state and federal criminal background checks and a state central registry check for certain DSS employees and potential employees.

C. The department will utilize the state central registry of justified (valid) reports of abuse or neglect for clearances of certain current and potential department employees, and will prohibit these individuals from being employed when their name is recorded on the state central registry, unless a risk evaluation panel determines that the individual does not pose a risk to children.

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010).

**§203. Conditions of Employment**

A. No individual shall be hired by the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, until the following conditions are met.

1. The individual submits his fingerprints to the Louisiana Bureau of Criminal Identification and Information to facilitate a state and national criminal records check and it is determined that the person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

2. The department has conducted a search of the state central registry and determined that the individual's name has not been recorded subsequent to January 1, 2010.

3. If the individual's name is recorded on the state central registry subsequent to January 1, 2010, a risk evaluation panel has determined in writing that the individual does not pose a risk to children.

B. Any current employee of the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and whose name is recorded subsequent to January 1, 2010, shall be terminated by the department unless a risk evaluation panel has determined in writing that the individual does not pose a risk to children.

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010).

**Chapter 3. Risk Assessment Evaluation**

**§301. Introduction**

A. The Office of Community Services (OCS) maintains a central registry of all justified (valid) reported cases of child abuse and neglect.

B. In accordance with R.S. 46:51.2, no person shall be hired, promoted, or transferred by the department to a position for which duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys until:

1. the department has conducted a search of the state central registry of justified (valid) abuse or neglect and has determined that the individual's name is not recorded therein subsequent to January 1, 2010; or

2. if an individual's name is recorded on the state central registry subsequent to January 1, 2010, a risk evaluation panel has determined in writing that the individual does not pose a risk to children.

C. In accordance with R.S. 46:1414.1(D), any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department who discloses that he is currently recorded on the state central registry for a justified (valid) finding of abuse or neglect shall be entitled to a risk evaluation provided by the department to determine whether the individual poses a risk to children.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 616, and Act 47, Act 221, and Act 388 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010).

**§303. Risk Evaluation Panel**

A. A risk evaluation panel (panel) is established to conduct risk assessment evaluations for an individual as listed in LAC 67:I.301.B and C whose name appears on the state central registry to determine if that individual poses a risk to children.

B.1. The panel shall consist of:

a. Division of Field Services Director or OCS Deputy Assistant Secretary;

b. Division of Prevention and Protective Services Director;

c. Division of Foster Care Services Director;

d. risk evaluation panel coordinator; and

e. any others designated by the DSS Deputy Secretary as appropriate designees of those listed above or as deemed necessary to convene an appropriate panel.

C. The duties of the panel shall include:

1. conducting an assessment of an individual listed in LAC 67:I.301.B and C whose name appears on the State Central Registry and has requested a risk evaluation to determine whether that individual poses a risk to children;

2. providing written notification of the decision to the individual; and

3. retaining all records of decisions.

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010).

**§305. Risk Assessment Evaluation Process**

A. The risk evaluation panel will determine if the individual listed in LAC 67:I.301.B and C poses a risk to children based on the information available in the OCS case record, and any supplemental information provided by the employee.

B. The individual requesting the risk assessment evaluation will not be present for the evaluation.

C. The prospective or current employee is responsible for providing the following documentation to the risk evaluation panel to be used in conjunction with the information in the case record in making a risk determination:

- 1. evidence of a rehabilitation effort since the justified (valid) incident of abuse or neglect such as but not limited to employment, education, or counseling;
- 2. information about the individual’s anticipated job responsibilities or current responsibilities; and
- 3. evidence of the individual’s present fitness to work with children, including three letters of recommendation, one of which must be from a former employer.

D. The prospective employee must submit the information within 10 days of the request for a risk evaluation by mailing to:

Louisiana Department of Social Services  
Attention: Risk Evaluation Panel  
627 N. Fourth St. Third Floor  
Baton Rouge LA 70802

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010).

**§307. Risk Determination Criteria**

A. A person determined to be a perpetrator of an incident of abuse or neglect may not automatically be denied a position or be allowed to retain a position which allows access to children.

B. The panel shall determine if an individual poses a risk to children based on the information available in the OCS case record, and any supplemental information provided by the prospective employee.

- 1. The following information shall be used by the panel to make its determination including, but not limited to:
  - a. the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;
  - b. the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the children, that would demonstrate unlikelihood of repetition;
  - c. the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been indicated against the individual;
  - d. whether the abuse or neglect involved single or multiple child victims or whether there were more multiple allegations over a period of time;
  - e. the relationship of the incident of child abuse or neglect to the individual’s current or conditional job responsibilities within the department or facility;

f. evidence of rehabilitation such as employment, education, or counseling since the indicated incident of abuse or neglect; and

g. letters of recommendation one of which must be from a former employer.

C. An individual determined to be a risk to children is prohibited from requesting a risk assessment evaluation for 24 months from the date of the original notice of decision issued by the risk evaluation panel.

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010).

**§309. Appeals Process**

A. The risk evaluation panel shall provide the individual who is the subject of the evaluation the decision of the panel in writing.

B. The notice of decision shall contain information regarding the individual’s right to appeal and request for a fair hearing.

C. The individual may file a request for an administrative appeal within 30 days of the mailing of the notice of the determination with the DSS Bureau of Appeals.

D. All decisions rendered by the administrative law judge within the Bureau of Appeals are final and such decisions shall exhaust the individual's administrative appeal rights.

E. Within 30 days after the mailing date listed on the notice of the final decision by the Bureau of Appeals, or if a rehearing is requested, within 30 days after the date of the decision thereon, the individual may obtain judicial review by filing a petition for review of the decision in the Nineteenth Judicial District Court or the district court of the domicile of the individual.

AUTHORITY NOTE: Promulgated in accordance with Act 47 and Act 221 of the 2009 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010).

Kristy Nichols  
Secretary

1004#031

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Wildlife Rehabilitation Program  
(LAC 76:V.131)

The Wildlife and Fisheries Commission does hereby establish rules for the permitting and operation of wildlife rehabilitators.

**Title 76**

**WILDLIFE AND FISHERIES**

**PART V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§131. Wildlife Rehabilitation Program**

A. Purpose

1. The purpose of this Section is to establish rules for the permitting and operation of wildlife rehabilitators.

## B. Definitions

*Rabies Vector Species (RVS)*—mammalian species defined by the Louisiana Department of Wildlife and Fisheries (LDWF) as potential carriers of the rabies virus including, but not limited to the following:

- a. raccoons;
- b. foxes;
- c. coyotes;
- d. skunks; and
- e. bats.

*Subpermittee*—person authorized to conduct rehabilitation activities under the supervisory responsibility of a wildlife rehabilitator.

*Supervisory Responsibility*—to direct actions and accept responsibility for the actions of a named individual engaged in wildlife rehabilitation activities.

*Wildlife Rehabilitation*—activity that provides housing, treatment and temporary care of injured and/or orphaned indigenous animals with the goal of subsequent release of those healthy animals to appropriate habitats in the wild.

*Wildlife Rehabilitator*—a person who is permitted by the LDWF to engage in the practice of wildlife rehabilitation.

## C. Permits

1. It shall be unlawful for any person to keep, hold or possess in captivity any sick, injured or orphaned wildlife (except fish) or otherwise engage in wildlife rehabilitation without first obtaining, at no charge, a LDWF Wildlife Rehabilitation Permit (WRP). In addition to the WRP, a United States Fish and Wildlife Service (USFWS) rehabilitation permit must be in possession to rehabilitate species covered by the Migratory Bird Treaty Act or Endangered Species Act.

2. A WRP authorizes the permittee to transport; temporarily possess; rehabilitate; transfer to a practicing veterinarian or another wildlife rehabilitator for treatment or euthanasia; release; or euthanize an injured, diseased, disabled, orphaned or otherwise debilitated live wildlife specified on their permit. Animals held under a WRP shall not be displayed for educational purposes or otherwise displayed or exposed to the public unless that individual animal has been permitted by LDWF or USFWS for that purpose.

## D. Exemptions

1. Employees of the LDWF are exempt from all state wildlife rehabilitation permit requirements while they are on duty.

2. Licensed veterinarians are exempt, provided they are treating an animal under the authorization of a wildlife rehabilitator or LDWF employee, or are treating an animal taken in from the public, provided the animal is released into an appropriate habitat or accepted by a wildlife rehabilitator within 72 hours after receiving.

## E. Permit Requirements

1. All applicants must be 18 years of age or older.

2. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past three years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a WRP.

3. All applicants must complete a WRP application, liability release, and financial responsibility statement.

4. The applicant must achieve a minimum score of 80 percent on either the LDWF general wildlife rehabilitation or Rabies Vector Species examination. A passing score on the general wildlife rehabilitation exam is required before an individual and named subpermittees will be issued a WRP excluding RVS. A passing score on the Rabies Vector Species examination is required for a WRP that authorizes rehabilitation of RVS.

5. All applicants must attend and successfully complete a LDWF approved wildlife rehabilitation class prior to or within six months of receiving their WRP. Failure to attend and successfully complete the class will result in the revocation of the WRP.

6. All applicants must provide verification of having access to veterinary services by submitting a Statement of Veterinary Support Form provided by LDWF.

7. All facilities where animals will be housed or maintained will be inspected by LDWF prior to receiving a WRP.

## F. General Rules

1. The WRP will not exempt the holder from regulations of other state, federal, parish or municipal governments or agencies.

2. Sale of any animal held under a WRP is prohibited.

3. No animal held under a WRP may be used for human consumption, unless specifically approved.

4. No Louisiana S1-ranked species may be held under a WRP, without written authorization from the LDWF Wildlife Division.

5. No animal intended for wildlife rehabilitation may be imported into or exported out of the state of Louisiana without written authorization by the LDWF Wildlife Division.

6. The WRP does not authorize the possession of white-tail deer, bears, wild turkeys, alligators, or rabies vector species (RVS) unless specifically stated on the permit.

7. Request for an Extension

a. WRP holders shall not possess a non-migratory bird for more than 90 days, other injured wildlife longer than 45 days, or other orphaned wildlife no longer than required to prepare the animal for release, but not to exceed 120 days, except that a permit holder may submit a written request for an extension of possession if:

i. the specified animal will likely be releasable after the time frame listed above but is currently non-releasable because of biological reasons; or

ii. a licensed veterinarian determines, due to medical reasons, the animal requires additional rehabilitation time.

b. All extension requests shall include a proposed release date and be submitted in writing to the LDWF Wildlife Division. The permit holder may continue to house the specified animal while the LDWF is reviewing the request. The LDWF will provide a written response and include specific dates and instructions regarding disposition of the animal.

8. WRP holders must ensure that animals are exposed to minimal handling and other human contact, except as necessary to maintain sanitary conditions, provide food and water, provide medical care, and prepare the animal for release.

9. Animals that are determined medically non-releasable, exhibit signs of adjusted life in captivity and pose minimum zoonotic disease potential may be considered for educational animal designation. A LDWF Special Purpose and Possession permit application must be submitted to the LDWF Wildlife Division by the end of the 90 day rehabilitation period to be considered for educational animal status.

10. All WRPs shall expire on December 31 of the year of issue unless otherwise noted.

11. Permits are non-transferable but may include up to five listed subpermittees. Subpermittees are authorized to transport, house, and provide care for animals away from the wildlife rehabilitation facility. A person caring for animals at the wildlife rehabilitation facility is not required to be a subpermittee. WRP holders desiring to add subpermittees, must submit a subpermittee application form. Subpermittee forms will only be accepted by the LDWF at the original time of permitting, renewal and during June 1-30 of each year. Individuals may be removed as subpermittees at any time of the year. A subpermittee removal form must be submitted. All subpermittees:

- a. must be 18 years of age or older;
- b. are exempt from the testing requirement but are subject to all other rules governing WRP holders including animal housing and care requirements;
- c. must work under the direction and supervision of the WRP holder;
- d. may be removed at any time by the supervising WRP holder or the LDWF and in such cases, must surrender any animals to the WRP holder or the LDWF;
- e. must have a valid subpermittee permit on the premises where animals are housed if animals are housed away from the supervising WRP holder's facility; and
- f. must not transport or possess RVS species away from the supervising WRP holder's facility unless they successfully pass the RVS examination.

12. WRP holders are subject to non-renewal or revocation of their WRP if the LDWF determines that any of their listed subpermittees are not properly supervised or fail to abide by applicable WRP rules.

13. The LDWF provides no financial or material assistance to wildlife rehabilitators.

14. Euthanasia of any animal held under a WRP is to be performed under the guidelines adopted by the American Veterinary Medical Association (AVMA).

15. Animals held under a WRP shall not be released on private land without written permission of the landowner or landowner designee.

16. Animals held under a WRP shall not be released on public land without first obtaining written permission from

the governmental entity owning or administering the property.

17. All permitted animals and facilities in which they are housed shall be maintained within the minimum standards as provided by the National Wildlife Rehabilitators Association (NWRA) and International Wildlife Rehabilitation Council (IWRC) publication of Minimum Standards for Wildlife Rehabilitation.

18. It is strongly recommended that any wildlife rehabilitator working with rabies vector species receive pre-exposure rabies immunization.

#### G. Reporting and Renewal Requirements

1. All animals held under a WRP must be fully documented on the Wildlife Rehabilitation Report Form provided by the LDWF.

2. Wildlife Rehabilitation Report Forms for the permit period must be submitted to the LDWF no later than 30 days following the expiration of the permit and the WRP will not be renewed until these forms are received. Reports will cover the period from December 1 of the prior license year to November 30 of the current license year. Any wildlife rehabilitator who does not submit his/her report by the thirtieth day after the expiration date of the WRP, or who submits a false or materially incomplete report intentionally may be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations. If the citation does not result in a conviction, plea of guilty, or plea of no contest, the wildlife rehabilitator may be considered for reapplication upon receipt of the late wildlife rehabilitation form(s).

3. Report forms must be current and shall be available for inspection at all times by wildlife enforcement agents or any other authorized representatives of the department.

4. Upon expiration of a WRP and if the WRP has not been renewed, all animals held under the permit must be disposed of by transferring to a currently licensed WRP, released into the wild, or euthanized.

#### H. Penalties

1. Violation of these rules and regulations constitutes a Class 2 offense.

2. Violation of these rules and regulations may result in citation and/or revocation of the WRP.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S.56:6 (10), and (15), and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 36:852 (April 2010).

Robert J. Barham  
Secretary

1001#010



# Notices of Intent

## NOTICE OF INTENT

### Department of Civil Service Board of Ethics

#### Food and Drink Limit (LAC 52:I.1703)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics, has initiated rulemaking procedures to make amendments to the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Section 1115.1(C) of the Code of Governmental Ethics.

#### Title 52 ETHICS

#### Part I. Board of Ethics

#### Chapter 17. Code of Governmental Ethics

#### §1703. Food and Drink Limit

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2010, the limit for food, drink or refreshments provided in R.S. 42:1115.1A and B is \$54.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:

#### Family Impact Statement

The proposed Rule has no impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600.

Kathleen M. Allen  
Ethics Administrator

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Food and Drink Limit

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the rule, which sets forth the amended monetary limit on the receipt of food and drink by a public servant and public employee, is \$328 in FY 10-11, which accounts for the cost to publish the Notice of Intent and the Rule in the *Louisiana Register*.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

#### II. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect all public employees and public servants by setting a monetary limit on the receipt of food and drink.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not have an effect on competition and employment.

Michael Dupree  
Staff Attorney  
1004#029

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Civil Service Civil Service Commission

#### Temporary Suspension of Merit Increase Authority

On March 19, 2010 the State Civil Service Commission adopted Rule 6.14.1 as an Emergency Rule. That Rule as adopted is quoted below and was approved by Governor Jindal on March 19, 2010, as required by Article X, Section 10(C) of the Constitution.

The adoption of that Rule was done pursuant to Rule 2.10, which limits an Emergency Rule to a life of 120 days. Consequently, The State Civil Service Commission will hold a public hearing at 9:00 a.m. on Wednesday, May 5, 2010 to consider adoption of the below proposed rule as a final rule. The hearing will be in the Louisiana Purchase Room of the Claiborne Building, 1201 North Third Street, Baton Rouge. The rule that will be considered at that meeting is the same rule that was adopted and approved as mentioned above, and it reads as follows:

#### Proposed Rule Suspending Merit Increases

##### Temporary Suspension of Merit Increase Authority

All provisions of the Merit Increase Rule shall be suspended for the period from July 1, 2010 through June 30, 2011. During this period of suspension, no appointing authority may grant a merit increase to any employee nor may any employee gain eligibility for a merit increase.

Consideration of this rule is for the reasons given above and, also, for the reasons given as explanation in General Circular 1798 that was issued on March 16, 2010 to announce consideration of the rule on an emergency basis. As noted in that general circular, all requirements in Civil Service Rules for Performance Planning and Review will remain in force and effect and must be met.

Jean Jones  
Deputy Director

1004#034

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.613, 1101, 1601, 4311, 5101, and 5103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §613, Calculating a Graduation Index, §1101, Performance Labels, §1601, Entry into and Exit from Academically Unacceptable School Status, §4311, Performance Labels, §5101, Definition of a Distinguished Educator, and §5103, Role of a Distinguished Educator. Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations. Proposed changes in Chapter 6 provide detail of how the Graduation Index is calculated. Proposed changes in Chapters 11, 16, and 43 provide detail of school and district performance scores and labels and explain how schools will enter and exit from Academically Unacceptable School status.

**Title 28  
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 6. Graduation Index**

**§613. Calculating a Graduation Index**

A. ...

B. The graduation index of a school shall be the average number of points earned by cohort members.

1. Beginning with the 2011 Baseline SPS, the baseline graduation index shall be adjusted using a factor derived from the cohort graduation rate used in the current subgroup component (see §708).

2. Beginning with the 2012 Growth SPS, the growth graduation index shall be adjusted using a factor derived from the cohort graduation rate used in the prior year's subgroup component (see §708).

3. The cohort graduation rate adjustment factor shall be calculated using the formula: unadjusted graduation index + [(graduation rate – graduation rate target) \* 1.5].

4. The graduation rate target shall be 65 percent in 2011 and increase 5 percent per year until 2014 when it will reflect the goal of 80 percent established in R.S. 17:2928.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006),

amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:000 (April 2010).

**Chapter 11. Performance Labels**

**§1101. Performance Labels**

A. School Performance Score

Performance Label	School Performance Score
Academically Unacceptable	Below 60.0 (through 2010) Below 65.0 (in 2011) Below 75.0 (in 2012)
Academic Watch	60 - 74.9 (in 2010) 65.0 - 74.9 (in 2011)
★	60.0 – 79.9 (through 2009) 75 – 79.9(beginning in 2010)
★★	80.0 – 99.9
★★★	100.0 – 119.9
★★★★	120.0 – 139.9
★★★★★	140.0 and above

B. ...

C. In the fall 2010, 2011, and 2012 accountability releases, any school that is not AUS and has an SPS of less than 75.0 shall be labeled "Academic Watch".

D. Academic watch schools that meet additional criteria associated with specific grant programs (such as Race to the Top and federal school improvement grants) can:

1. be eligible for participation in those programs; and
2. are waived from the requirements of academic assistance when they do participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 31:2764 (November 2005), LR 33:2349 (November 2007), LR 35:639 (April 2009), LR 36:000 (April 2010).

**Chapter 16. Academically Unacceptable Schools and Subgroup Component Failure**

**§1601. Entry into and Exit from Academically Unacceptable School Status**

A. Through the 2009-10 accountability releases, schools with baseline school performance scores (SPS) of less than 60.0 points shall be labeled "Academically Unacceptable Schools" (AUS). Beginning with the 2010-11 accountability release, schools with SPS of less than 65.0 shall be labeled "AUS". This value shall increase annually by 10.0 SPS points to 75.0 in 2012. All AUS schools shall implement remedies from the "Academically Unacceptable Schools" table (below).

A.1. - E. ...

F. Schools exit academically unacceptable school status when their Baseline SPSs are greater than or equal to:

1. 60.0 in 2009-10;
2. 64.9 in 2010-11; and
3. 75.0 in 2011-2012.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2595 (December 2007), amended LR 35:2312 (November 2009), LR 36:000 (April 2010).

**Chapter 43. District Accountability**

**§4311. Performance Labels**

A. Districts shall be assigned a DPS performance label as follows.

1. A district shall receive a label for its district performance score.

Performance Label	District Performance Score
Academically Unacceptable	Below 60.0 (through 2010) Below 65.0 (in 2011) Below 75.0 (in 2012)
Academic Watch	60 - 74.9 (in 2010) 65 - 74.9 (in 2011)
★	60.0 - 79.9 (through 2009) 75.0 - 79.9 (beginning in 2010)
★★	80.0 - 99.9
★★★	100.0 - 119.9
★★★★	120.0 - 139.9
★★★★★	140.0 and above

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:635 (March 2005), LR 33:635 (April 2007), LR 35:640 (April 2009), LR 36:000 (April 2010).

**Chapter 51. Distinguished Educator Program**

**§5101. Definition of a Distinguished Educator**

A. The Distinguished Educator Program is part of the school and district accountability program established pursuant to R.S. 17:10.1.

1. Distinguished educators shall provide technical assistance in low performing schools determined to be in need of corrective action or otherwise in need of technical assistance pursuant to the school and district accountability program.

2. Distinguished educators will be provided to low performing schools by the LDOE, as available.

3. Placement of a distinguished educator in a school is determined by:

- a. SPS of the school;
- b. number of years the school has been underperforming;
- c. geographic equity of distribution of distinguished educators;
- d. LEA agreement to enter into the distinguished educator memorandum of understanding with the LDOE.

4. Distinguished educators may be provided to a school for which BESE has entered into a memorandum of understanding (MOU) with a school district.

5. The LDOE will enter into memorandum of understanding (as required by R.S. 17:10.1) with the LEA for the services of a distinguished educator.

6. The distinguished educator will have access to student, school, and district records as is necessary to facilitate the school improvement process at the assigned school.

7. Distinguished educators are hired as temporary unclassified employees of the Department of Education for the term of service. The terms, conditions, benefits, compensation, and all other employment issues regarding the distinguished educator are to be determined by the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:000 (April 2010).

**§5103. Role of the Distinguished Educator**

A. The distinguished educator will communicate regularly, both verbally and in writing with both the school principal and the district superintendent or designee (liaison) to facilitate the school improvement process at the assigned school.

B. To facilitate school improvement, the distinguished educator shall:

- 1. model effective instructional and leadership strategies;
- 2. analyze school data with staff and help the staff utilize the data for school improvement planning and program implementation;
- 3. deliver professional development to school staff;
- 4. promote and support professional learning communities among the school staff;
- 5. monitor, assess and assist teaching and learning in the classroom;
- 6. mentor and coach individual teachers over a significant period of time to improve academic outcomes with students;
- 7. facilitate the implementation of a school curriculum that aligns with the grade level expectations (GLEs) and Louisiana comprehensive curriculum;
- 8. assist school staff in improving student achievement as measured by formative and summative assessments;
- 9. assist the principal and central office to examine how school funds are expended and make suggestions on how to better utilize these funds to align with the SIP and focus on student achievement;
- 10. make recommendations to the local superintendent and school board on behalf of the school;
- 11. promote improved communications and involvement among and between students, staff, parents, and the community;
- 12. participate in school improvement activities and parent/community involvement meetings at an assigned school;
- 13. submit a written monthly report of school improvement implementation or non-implementation, and recommendations to the Department of Education and the district superintendent or designee (liaison). The distinguished educator monthly reports are available for BESE review for all schools or for any specific school, on request;
- 14. serves in an advisory capacity to the school principal and staff as well as the district staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:000 (April 2010).

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., June 9, 2010, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette B. Vosburg  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed changes in Bulletin 111, Chapter 6 provide detail of how the Graduation Index is calculated.

Proposed changes in Bulletin 111, Chapters 11, 16, and 43 provide detail of school and district performance scores and labels and explain how schools will enter and exit from Academically Unacceptable School status.

There will be an indeterminable implementation cost to state and local governmental. The Department of Education could incur additional costs related to providing to academically unacceptable schools. The Department anticipates that expenditures related to any increased costs will come from state funds, and will come from within the existing budget. Local school systems will likely incur additional costs related to mandated services required as a result of becoming an academically unacceptable school. The costs are indeterminable and will vary by school. Non-Title I schools will use local funds for any increased costs, while Title I schools may use a combination of local and federal funds.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1004#003

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Spill Prevention and Control  
(LAC 33:IX.Chapter 9)(WQ079)

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, Title 33, Part IX, Subpart 1, Chapter 9 (WQ079).

This proposed rule change will increase the minimum container volume for applicability of the spill prevention provisions from 660 gallons to 1320 gallons, and will establish a de minimus container size for aggregate container applicability that excludes containers smaller than 55 gallons of oil from consideration. It will also increase the interval between operators' required reviews of their spill prevention plans from three years to five years.

There are also minor corrections of grammar and updates of acronym changes in the Rule. Example: LWPDES to LPDES. This proposed change will make this portion of our rules similar to 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 1. Water Pollution Control

#### Chapter 9. Spill Prevention and Control

#### §901. Purpose and Scope

A. This Chapter establishes requirements for contingency planning and implementation of operating procedures and best management practices to prevent and control the discharge of pollutants resulting from spill events. For the purpose of this Chapter, *spill event* means the accidental or unauthorized leaking or releasing of a substance from its intended container or conveyance structure that has the potential to be discharged or results in a discharge to the waters of the state. Discharges resulting from circumstances identified, reviewed, and made part of

the public record with respect to a valid LPDES permit are not considered spill events.

B. - C. ...

D. Definitions. The following definitions apply to terms used in this Chapter. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.105 and 107.

*Oil*—any kind or form of oil, including but not limited to: fats, oils, or greases from animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and other oils and greases including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, and oil mixed with waste other than dredged spoil.

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 11:1066 (November 1985), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

### §903. Applicability

A. The provisions of this Chapter apply to:

1. all substances listed in LAC 33:I.931 of the Notification Regulations and Procedures For Unauthorized Discharges, other than *oil* as defined in LAC 33:IX.901.A, that are in liquid form at temperatures ranging between 0° and 35°C and pressures at or near 760 mm Hg;

2. *oil* as defined in LAC 33:IX.901.D; and

3. any other substance that the administrative authority declares, in light of the circumstances presented, offers sufficient danger of pollution of the waters of the state to justify application of the provisions of this Chapter.

B. The minimum aboveground storage capacity at which Paragraph A.1 of this Section applies is 1,320 U.S. gallons for two or more individual containers in aggregate within a common storage area, or 660 U.S. gallons for an individual container.

C. The minimum aggregate aboveground storage capacity at which Paragraph A.2 of this Section applies is 1,320 U.S. gallons. For the purposes of this aggregate quantity determination, only containers with a capacity of 55 U.S. gallons or greater are counted.

D. The provisions of this Chapter apply also to any equipment or structures utilized for the conveyance or transfer (loading/unloading) of applicable substances to/from transportation vehicles or vessels to/from facility storage, processing, or disposal areas. For the purposes of this Chapter, the term *facility* includes those of fixed location when in operation, and that are land based or situated upon or within wetlands and/or surface waters of the state. The requirements of this Chapter shall not apply to off-site transmission pipelines.

E. The storage and conveyance applicability of this Chapter includes, but is not limited to, all substances meeting the applicability criteria outlined in Subsection A of this Section, whether handled as raw materials, products, process intermediaries, byproducts, wastes, process catalysts, lubricants, or fuels.

F. The provisions of this Chapter shall not apply in those cases where applicable substances are stored within process equipment or conveyance structures located in process areas,

provided that the drainage from these areas is routed via an LPDES treatment train to a permitted LPDES outfall.

G. The provisions of this Chapter do not require the preparation of a plan for storage or conveyance of substances in solid form except in instances or at facilities where there exists the potential for solid substances to be spilled, released or discharged either directly to waters of the state or to a flowing drainage conveyance that would immediately transport spilled solid substances to waters of the state. In such cases the requirements for preparation of a plan may apply to solid substances for which there is reasonable evidence or cause to believe that an appreciable degradation of water quality would result from a spill or release due to the nature and/or quantity of the solid substances handled. Even if it has been determined that the preparation of a plan is not required for the storage or conveyance of solid substances at a given facility, it is incumbent upon the operator of that facility to avoid potential contamination to the waters of the state.

H. Upon notification to the owner/operator of a facility and demonstration of reasonable cause, the administrative authority may require the preparation of a plan for substances not expressly covered by the applicability requirements of this Chapter.

I. The requirements of this Chapter are intended to complement existing laws, rules, regulations and standards pertaining to the prevention of water pollution. Compliance with this Chapter does not relieve the operator of a facility from compliance with other federal, state or local laws and regulations. Spill Prevention Control and Countermeasure (SPCC) Plans prepared pursuant to 40 CFR Part 112, or manuals prepared relative to any other state or federal requirement, will be acceptable for inclusion in the plan required by this Chapter. A complete plan, however, shall address all applicable substances.

J. Underground Storage Containers—Reserved

K. Drum and Barrel Storage—Reserved

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 11:1066 (November 1985), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

### §905. Requirements for Preparation and Implementation of Plans

A. - E. ...

F. Periodic Review of Plans. Operators of facilities shall review the plan every five years and shall amend the plan within 90 days of the review to include more effective prevention and control technology if such technology will significantly reduce the likelihood of a spill event and if such technology has been field proven at the time of the review.

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 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 36:

**§907. Guidelines for the Preparation and Implementation of a Plan**

A. The plan shall be prepared in accordance with sound engineering practices. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed, and the details of installation and operational start-up shall be explained individually. The department recognizes that the designs of major facilities differ and that in certain cases the appropriate methods for spill prevention and control must be site-specific. While the guidelines presented herein suggest the use of specific methodologies for this purpose, alternate methods may be employed if it can be demonstrated to the satisfaction of the department that the alternate methods will adequately prevent and control spills, and that they are reasonably equivalent to the suggested methods. A complete plan shall follow the sequence outlined in LAC 33:IX.903.B-F.

B. - H.5.b. ...

I. Personnel training and spill prevention procedures should be employed, and brief discussions of the following should be included in the plan.

1. Operators are responsible for properly instructing the appropriate personnel in the operation and maintenance of equipment to prevent or contain spills of substances that are subject to this Chapter’s provisions, and all applicable spill control rules and regulations associated with substances present on the facility site that are subject to this Chapter’s provisions.

I.2. - K. ...

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 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

**Family Impact Statement**

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

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by (WQ079). Such comments must be received no later than June 2, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations 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 WQ079. These proposed regulations are available on the Internet at: [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

**Public Hearing**

A public hearing will be held on May 26, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are 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.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Spill Prevention and Control**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated costs or savings to state or local government units as a result of the rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections of state or local governmental units is anticipated from the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

A minimal economic benefit will be experienced by facility owners and operators because of the larger volume allowance in container storage areas, and for the increase in time period for the required review of the prevention and implementation plan allowed for both container storage and aboveground storage tank areas.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No significant effect on competition or employment from this proposed rule is anticipated.

Herman Robinson, CPM  
Executive Counsel  
1004#013

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Facility Planning and Control**

Percent for Universal Design Program  
(LAC 34:III.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of RS 39:121, The Division of Administration, Facility Planning and Control hereby gives notice of its intent to adopt a new Rule, LAC 34:III.Chapter 3, Louisiana Uniform Public Work Bid Form. This Rule is required by Act 368 of the 2009 Regular Legislative Session and provides for rules for their implementation as authorized by the Act.

**Title 34**  
**GOVERNMENT CONTRACTS, PROCUREMENT**  
**AND PROPERTY CONTROL**

**Part III. Facility Planning and Control**

**Chapter 3. Louisiana Uniform Public Work Bid Form**

**Subchapter B. Universal Design**

**§321. Name**

A. The name of this document shall be the "Percent for Universal Design Program" also referred to hereinafter as "Universal Design."

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:

**§323. Purpose**

A. The purpose of this program is to provide for the implementation of the Principles of Universal Design in or on state buildings and grounds to move beyond minimum accessibility requirements, maximize accessibility for all users regardless of their functional capabilities and bring to the attention of architects, builders, and the public at large the vast benefits that can be realized by implementing universal design principles in the construction and renovation of all buildings, including those privately owned and personal residences.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:

**§325. Applicability**

A. This Chapter shall apply to all state agencies and the construction or renovation of all state buildings for which the estimated construction cost exceeds two million dollars.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:

**§327. Definitions**

A. For the purposes of this Chapter, the following terms shall have the indicated meanings.

*Construction*—the process of adding structure to real property by acquiring and assembling the components of buildings or other physical improvements.

*Renovation*—construction to modify, alter or change an existing building for the purpose of adaptive reuse, reconstruction or restoration and may include modification of any or all building systems. It does not, however, include a project the principal purpose of which is the rehabilitation of plumbing, heating, ventilating, air conditioning, electrical or other systems whose purpose is strictly utilitarian.

*State Building*—any building, facility, structure, or park built or renovated using state funds that will be owned by a department or agency in the executive, judicial, or legislative branch of state government, including any state-owned lands or space surrounding or integral to the building. "State building" does not include vehicular bridges and tunnels, or other non integral structures whose purpose is strictly utilitarian.

*State Funds or State Money*—shall not include federal funds or insurance proceeds for the construction, replacement, renovation, or improvement of a state building damaged by a natural catastrophe when conditions governing the expenditure of such monies specifically preclude their use for the utilization and implementation of universal design features, nor shall it include state monies used as a match for such federal funds or insurance proceeds.

*Universal Design*—as more fully defined in the attached list of Principles of Universal Design, means certain design features that are not currently required by the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:

**§329. Process**

A. In order to allow for the highest level of flexibility, innovation and imagination to be applied to the implementation of the Principles of Universal Design, these rules establish the philosophical concepts that are to be utilized in the design, construction or renovation of state buildings.

1. The requirement to incorporate Principles of Universal Design into the design will be made part of the architectural program for all applicable projects.

2. The Universal Design requirement will be stated in any advertisements or other solicitations for the procurement of design services for building construction or building renovation.

3. The architectural program, including the requirement to incorporate Principles of Universal Design will be made part of the design contract for all applicable projects.

4. Features following the Principles of Universal Design will be determined by the designer and confirmed by the owner.

a. During the development of the design of the project and no later than the beginning of the production of construction documents, the designer will review the Principles of Universal Design, existing examples of universal design and other information and use this information to identify and develop features that utilize universal design principles as well as conforming to the mission of the project.

b. The designer will translate these principles into design features the cost of which will make up at least 2% of the estimated construction cost.

c. The designer will provide a report in a format defined by the owner including the following:

i. an itemized list of each feature that adheres to the principles of universal design;

ii. a dollar value for each feature;

iii. a description of each feature and an explanation of why each feature is above and beyond standard practice for the occupancy and quality level of the project.

d. The owner will review this report and verify that the features follow the Principles of Universal Design and that the cost allocation is reasonable.

e. Approval of this report will authorize the designer to incorporate the features in the project design. Once approved this report will be final and will serve as the documentation of compliance with the provisions of RS 38:2318.2 unless the project scope is changed in such a way that the estimated construction cost is increased by more than 2 percent. If this situation obtains, the designer shall modify his/her report by including additional features or expanding existing ones to maintain the minimum 2 percent.

f. Questions about the validity of proposed universal design features between the designer and the owner that cannot be resolved may be referred to an advisory group established by AIA Louisiana (Louisiana Chapter of the American Institute of Architects) in accordance with RS 38:2318.2 F.(1.) Features determined to be invalid will not be included in the approved list and the designer will modify his/her report to include additional features or expand existing ones to maintain the minimum 2 percent.

g. If the construction contract award amount varies from the estimated construction cost it will be assumed that all costs vary on a proportional basis and therefore the cost of the universal design features will continue to represent 2 percent of the total cost.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:

### **§321. Principles of Universal Design**

A. Universal design is a principle of design guiding a wide range of design disciplines including environments, products, and communications including all of the following.

1. Principle 1: Equitable Use. The design is useful and marketable to people with diverse abilities.

a. Guidelines. Provides the same means of use for all users: identical whenever possible; equivalent when not. Avoids segregating or stigmatizing any users. Incorporates provisions for privacy, security, and safety that should be equally available to all users. Makes the design appealing to all users.

2. Principle 2: Flexibility in Use. The design accommodates a wide range of individual preferences and abilities.

a. Guidelines. Provides choice in methods of use. Accommodates right or left handed access and use. Provides adaptability to the user's pace.

3. Principle 3: Simple and Intuitive Use. Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level.

a. Guidelines. Eliminates unnecessary complexity. Consistent with user expectations and intuition. Accommodates a wide range of literacy and language skills. Arranges information consistent with its importance. Provides effective prompting and feedback during and after task completion.

4. Principle 4: Perceptible Information. The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.

a. Guidelines. Uses different modes (pictorial, verbal, tactile) for redundant presentation of essential

information. Provides adequate contrast between essential information and its surroundings. Maximizes "legibility" of essential information. Differentiates elements in ways that can be described which includes making it easy to give instructions or directions. Provides compatibility with a variety of techniques or devices used by people with sensory limitations.

5. Principle 5: Tolerance for Error. The design minimizes hazards and the adverse consequences of accidental or unintended actions.

a. Guidelines. Arranges elements to minimize hazards and errors: most used elements, most accessible; hazardous elements eliminated, isolated, or shielded. Provides warnings of hazards and errors. Provides fail-safe features. Discourages unconscious action in tasks that require vigilance.

6. Principle 6: Low Physical Effort. The design can be used efficiently and comfortably and with a minimum of fatigue.

a. Guidelines. Allows user to maintain a neutral body position. Uses reasonable operating forces. Minimizes repetitive actions. Minimizes sustained physical effort.

7. Principle 7: Size and Space for Approach and Use. Appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility.

a. Guidelines. Provides a clear line of sight to important elements for any seated or standing user. Makes reach to all components comfortable for any seated or standing user. Accommodates variations in hand and grip size. Provides adequate space for the use of assistive devices or personal assistance.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:

### **Family Impact Statement**

The proposed amendment of LAC 34:III.Chapter 34, regarding Percent for Universal Design Program 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. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

### **Public Comments**

Any interested person may submit written comments regarding this proposed Rule to William Morrison, Assistant Director, P.O. Box 94095, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., May 10, 2010.

John L. Davis  
Director



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Percent for Universal Design Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will result in an increase in capital outlay expenditures of approximately \$4 million annually with a growth rate of approximately 2% annually to account for conservative construction inflation. The requirement to incorporate Principles of Universal Design into the design will be made part of the architectural program for all applicable projects, advertised for design services as such and will be incorporated into the design contract. The "Percentage for Universal Design Program" was enacted in accordance with Act 368 of the 2009 Regular Legislative Session

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no impact on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will require changes to designs generated by design consultants but will not result in either costs and/or economic benefits to this group.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no impact on competition or employment.

John L. Davis  
Director  
1004#030

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Information Technology**

Office of Electronic Services; Louisiana Data Base  
Commission (LAC 4:XI.101-111)

The Louisiana Office of Information Technology (OIT) announces its intention to repeal the entire Chapter below which will result in abolishing the Office of Electronic Services. Act 409 of the 2009 Regular Legislative Session abolished the Office of Electronic Services, eliminated the obsolete duties that have been carried forward from the Louisiana Data Base Commission, and incorporated the staff, updated duties, and responsibilities into the Office of Information Technology.

It should be noted that when OES was created by Act 772, Subpart D of the 2001 Regular Legislative Session, it was placed under the direction of the Chief Information Officer. Act 409 of the 2009 Regular Legislative Session is not moving the staff and duties to the CIO's office; they are already there. It merely clarified the organizational structure of the Office of Information Technology.

**Title 4**

**ADMINISTRATION**

**Part XI. Office of Electronic Services**

**Chapter 1. Definition of the Louisiana Data Base**

**§101. Policy**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2611 (November 2000), repealed by the Office of Information Technology, LR 36:

**§103. Purpose**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:

**§105. Applicability**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:

**§107. Procedure**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:

**§109. Definitions**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:294 and R.S. 39:2 (10), (31), (41), and (43).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:

**§111. Responsibility**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:

**Family Impact Statement**

The proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

**Public Comments**

Interested persons may submit comments on this proposed rule to Neal Underwood, Office of Information Technology, P.O. Box 94095, Baton Rouge, LA 70804-9095, by close of business May 10, 2010.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Office of Electronic Services; Louisiana  
Data Base Commission**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs to state or local government. This notice to repeal the administrative rule results from Section 4 of Act 409 of the 2009 Regular Legislative

Session which abolished the Office of Electronic Services, eliminated the obsolete duties that have been carried forward from the Louisiana Data Base Commission, and incorporated the staff, updated duties and responsibilities into the Office of Information Technology. Section 4 of Act 409 becomes effective on July 1, 2010. In preparation for the impact of Act 409, the Division of Administration realized a reduction of \$675,000 in the General Fund expenditure authority in the FY 2010 budget. This becomes a permanent budget reduction moving forward into FY 2011 and FY 2012 as the Office of Electronic Services is statutorily eliminated and results in a three-year cost savings of \$2,025,000.

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 government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Section 4 of Act 409 of the 2009 Regular Legislative Session was proposed by the Division of Administration with the intent of providing a more efficient operation at a reduced annual cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Ed Driesse  
Chief Information Officer  
1004#028

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Motor Vehicle Commission**

General Provisions

(LAC 46:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission proposes to repeal provisions of its rules relating to hearings and replace them with existing and new regulations and language to clarify the Rule as follows:

§101, "License Required" will become "Definitions" (previously §707);

§103, "Application for License" will become "Communication with Commission" (previously §107);

§105, "Violation of License Requirement" will become "Powers and Duties of Executive Director" (previously §109);

§301, "Hearings" will become "Investigation and Adjudication by the Commission";

§303, "Compulsory Attendance of Witnesses" will become "Adjudication Process and Procedures";

§305, "Notification and Hearing Decision" will become "Formal Hearing";

§307, "Appeal" will become "Declaration Orders and Rulings";

§505, "Licensee Employing Salesmen" will become "Pocket License Card";

Chapter 9, "Prohibitions" will become "Franchised Dealer Requirements" (previously Chapter 13); and

Chapter 11, "Amending Rules" will become "Vehicle Repairs and Services" (previously Chapter 15).

Rules will be adopted to implement the provisions of R.S. 32:1268.2 with regard to the disposal of inventory and R.S. 32:1256 with regard to new motor vehicle auto shows. Certain Sections will be amended with language to clarify the rules and put into the rule customary procedures of the commission which will assist licensees in dealing with the regulatory scheme assigned the commission.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part V. Automotive Industry**

**Subpart 1. Motor Vehicle Commission**

**Chapter 1. General Requirements**

**§101. Definitions**

**[Previously §707]**

A. Definitions

*Abbreviations*—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as “ ‘2 DR’ ,” “ ‘AM/FM’ ,” “ ‘APR’ ,” “ ‘WAC’ ,” “ ‘DEMO’ ,” “ ‘EXEC’ ,” “ ‘DOC FEE’ ,” may be used. Trade industry abbreviations which are not commonly understood, such as “ ‘FTB’ ,” “ ‘A/R’ ,” “ ‘TOP’ ,” “ ‘POF’ ,” “ ‘DOC’ ,” may not be used. This rule does not contain a list of all the abbreviations one may not use.

*Advertisement*—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or on-hold messaging, any medium.

*Bait Advertisement*—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

*Balloon Payment*—any scheduled payment required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

*Commission*—the Louisiana Motor Vehicle Commission.

*Dealership Addendum*—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

a. The addendum is to disclose:

i. that it is supplemental;

ii. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

iii. any additional charge to the selling price manufacturer’s suggested retail price (MSRP) such as additional dealership markup; and

iv. the total dealer retail price.

b. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

*Demonstrator*—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

*Disclaimer*—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

*Disclosure*—a clear and conspicuous statement made in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable and understandable. The disclosure may not contradict or be inconsistent with any other information with which it is presented. If the disclosure modifies, explains, or clarifies other information with which it is presented, or states "see dealership for details," then it must be presented in proximity to the information it modifies, in a manner readily noticeable, readable, and understandable, and it must not be obscured in any manner.

a. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it.

b. A visual disclosure for television must appear on the screen for a duration sufficient for a consumer to read and comprehend it.

c. In a print or internet advertisement or promotional material, including without limitation point of sale display or brochure materials directed to consumers, a disclosure must be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears.

d. For purposes of these rules, qualifying terms and phrases will be considered to be clearly, conspicuously and accurately set forth if they are:

i. in bold print and type of such size that is capable of being read without unreasonable extra effort;

ii. expressed in terms that are understandable to the buying public; and

iii. in close proximity to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.

*Factory Executive/Official Vehicle*—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

*Internet*—a system that connects computers or computer network.

*Licensee*—any person required to obtain a license from the commission.

*Manufacturer's Label*—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-

1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

*Program Vehicle*—a used vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

*Rebate or Cash Back*—a sum of money refunded to a purchaser for their benefit by the manufacturer or distributor after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

*Vehicle*—any motor vehicle or recreational product subject to regulation by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:

### **§103. Communication with Commission [Previously §107]**

A. All communications with the commission should be addressed to its office, 3519 Twelfth Street, Metairie, Louisiana 70002. All necessary forms may be obtained at such office.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### **§105. Powers and Duties of Executive Director [Previously §109]**

A. The executive director of the commission shall have charge of the office of the commission, the clerical help therein, the books and records of the commission, and the financial accounts of the commission, subject to the orders and instructions of the commission. He shall attend to such routine correspondence and other activities as may not require official action by the commission itself, and shall perform such other tasks as the commission may delegate to him. The executive director has the authority to issue all licenses upon receipt of applications that comply with the statutes and rules of the commission. He shall endeavor to obtain all necessary information and so handle and process the preliminary aspects of matters which are to come before the commission for official action that when placed before the commission the matter will be in shape for proper official action.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§107. Manufacturer Termination of Franchise:  
Liquidation of New Vehicle Inventory:  
Exception**

A. If the termination, cancellation, or nonrenewal of a licensee's franchise by the manufacturer, distributor, or factory branch is the result of the termination, elimination, or cessation of a motor vehicle or recreational product line (a "vehicle"), whether by bankruptcy, closure of its business or otherwise (the "termination"), the license issued by the commission many remain in effect or be renewed at the discretion of the commission under the following circumstances.

1. The vehicle(s) was acquired in the ordinary course of business as a new vehicle by a person licensed to sell that vehicle.

2. The termination is not a result of the revocation by the commission of the licensee's license or the licensee's conviction of a crime.

3. The vehicle is held in the inventory of the licensee on the date of the termination.

4. The vehicle is sold by the licensee within six months of the date the termination unless this period is extended upon application by the licensee in the commission's discretion.

5. The commission's discretion to allow the licensee to continue in effect does not entitle a licensee whose franchise agreement has been terminated, canceled, or rejected to continue to perform warranty service repairs or continue to be eligible to offer or receive consumer or dealer incentives offered by the manufacturer, distributor, or factory branch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§109. Records Management; General**

A. Any public record maintained by the commission may be kept in any written, photographic, microfilm, or other similar form or method, or may be kept by any magnetic, electronic, optical, or similar form of data compilation that has reasonable safeguards against erasure or alteration, including the use of programs, methods, procedures and/or services that provide secured, portable document formats and digital signatures, and for which the commission has obtained the necessary licenses and/or authorities to insure reasonable safeguards against erasure or alteration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§113. Hearings on Area of Responsibility Disputes**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 36:

**§115. Hearings on a Repurchase Demands**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 36:

**Chapter 3. Hearing Procedures**

**§301. Investigation and Adjudication by the Commission**

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 32:1251 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Chapter or for the violation of any other law or rule or regulation relating to the sale, lease or rental, distribution or financing of products, and any activities regulated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§303. Adjudication Process and Procedures**

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 32:1251 et seq., as re-enacted and amended. An adjudication proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

B. The commission is empowered to conduct investigations to determine compliance with the laws and rules and regulations it administers. The executive director or its designee may issue a subpoena prior to the filing of charges if, in the opinion of the executive director, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S. 32:1251 et seq., or the rules, regulations, or orders of the commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony or to compel the production of books, records, papers, or other objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§305. Formal Hearing**

A. The commission has the authority to bring administrative proceedings with regard to any licensee, applicant for a license, or any person engaged in activities regulated by the commission, as well as to conduct administrative hearings with regard to disputes between its licensees regarding the provisions of R.S. 32:1251 et seq., and other laws and rules and regulations administered by the commission. A person(s), who is a party to the hearing, has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The executive director fixes a time and place for a hearing.

2. Within 10 days from the time of receipt of the notice of hearing, the noticed party shall file with the

executive secretary of the commission an answer admitting or denying separately and in good faith each statement of fact made in the notice. If the noticed party has no knowledge of the truth of any particular fact, he shall so state and it shall be taken as denied. Any fact not expressly denied, or knowledge thereof disclaimed, shall be considered admitted. This rule is for the purpose of preventing the loss of time and expense frequently occasioned in proving and recording facts about which there is not real controversy.

3. If the licensee, or person subject to the hearing, does not appear, in person or through counsel, after proper notice has been given, the person may be deemed to have waived his right to appear and the commission may proceed with the hearing without the presence of the person.

4. Informal disposition of any case of adjudication may be made by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 36:

### **§307. Declaratory Orders and Rulings**

A. The commission may issue a declaratory order and ruling pursuant to the Administrative Procedure Act which has the same status as a commission decision or order in an adjudicated case.

B. A request for a declaratory order and ruling shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statutes or rules and regulations to which it relates;
3. a statement of the manner in which the petitioner is aggrieved by the statute or rule or by its potential application to it, or in which it is uncertain of its effects;
4. a statement of whether an oral hearing is desired;
5. other information appropriate for the commission's deliberation on the request.

C. The petition will be considered by the commission at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

## **Chapter 5. Motor Vehicle Salesmen; Dealers; Distributors**

### **§501. Licenses for Motor Vehicle Salesmen**

A. The requirement of licenses for motor vehicle salesmen, as set forth in R.S. 32:1251 et seq., includes any person whose duties include, in whole or in part, the selling, financing, insuring, or participating in the selling of motor vehicles or recreational products.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### **§503. Unlicensed Motor Vehicle Salesmen**

A. It is illegal for licensees to employ unlicensed motor vehicle salesmen. A motor vehicle salesman must possess a separate license for every licensee and location for which he engages in any selling activity.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### **§505. Pocket License Card**

**[Previously §507]**

A. Every motor vehicle salesman, factory representative, and distributor representative, when licensed, will be licensed to represent his employer and must keep his pocket license card on his person, and his employer must retain possession of the license certificate until termination of such employment. Said motor vehicle salesman, factory representative, or distributor representative may not represent another employer without first being issued a license to represent the said particular employer.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### **§507. Termination of Motor Vehicle Salesman; Return of Pocket Card and License**

**[Previously §509]**

A. All licenses having motor vehicle salesmen in their employ must, upon termination of such employment, report same to the commission and see to it that said motor vehicle salesman's pocket card and license certificate are immediately returned to the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### **§509. Unlicensed Motor Vehicle Salesmen; Prohibition against Use of**

**[Previously §511]**

A. Licensees shall not employ or compensate unlicensed motor vehicle salesmen to sell vehicles, and shall not employ or utilize the services of used motor vehicle lots or dealers or other unlicensed "bird dogs" in connection with the sale of vehicles.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§511. Display of License**

**[Previously §513]**

A. Every licensee must post his license certificate as such in a prominent place in his place of business, stated in such license certificate, and licensees having more than one place of business in Louisiana must obtain a separate license for each place of business and post in each place of business in a prominent place the license for such place of business.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§513. License Prior to Shipment**

**[Previously §515]**

A. A manufacturer, distributor, converter, factory representative, or distributor representative shall not ship or sell motor vehicles, recreational products, or specialty vehicles to a licensee until the licensee shall have been licensed by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**Chapter 7. Advertising**

**§703. General Prohibition**

A. A person advertising vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:

**§705. Specific Rules**

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of R.S. 32:1251 et seq. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed a violation of R.S. 32:1251 et seq., and shall also be considered a violation of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:

**§709. Availability of Vehicles**

A. - A.2. ...

B. Licensees may advertise a specific used vehicle or vehicles for sale if:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:

**§713. Untrue Claims**

A.1. - 5. ...

6. specific claims or discount offers shall not be used in connection with any vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck or recreational product. Full explanation must be given, as for example, "Save or discount \$ from manufacturer's list/retail price." Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:

**§717. Manufacturer's Suggested Retail Price**

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:

**§719. Dealer Price Advertising**

A. The featured price of a new or used vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

A.1. - B. ...

C. If a price advertisement of a new vehicle discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$500
less dealer discount	\$500
Sale Price	8,995

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:

#### **§721. Identification**

A. - B. ...

C. An illustration of a vehicle used in an advertisement must be substantially the same as that of the vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:

#### **§729. Demonstrators, Factory Executive/Official Vehicles**

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:

#### **§747. Savings Claims; Discounts**

A. ...

B. The featured savings claim or discount offer for a vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. ...

E. No person may advertise a savings claim or discount offer on used vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:

### **Chapter 9. Franchised Dealer Requirements**

#### **§901. Display Showroom Requirement**

[Previously §1301]

A. Franchised new motor vehicle dealers must have an enclosed new motor vehicle display showroom of not less than 400 square feet in area, and must maintain an adequate stock of replacement parts, an adequate shop area and adequate mechanical facilities for the proper servicing of the motor vehicles which he sells.

B. Provided that low speed vehicles as defined from time to time by the Office of Motor Vehicles and exclusive heavy

duty truck dealers are not required to maintain a display showroom as required by this Section.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983), amended LR 36:

### **Chapter 11. Vehicle Repairs and Services**

#### **§1101. Definitions**

[Previously §1501]

A. For the purpose of Chapter 11 only, the following definitions shall apply.

*Anticipated Repairs, Services, Labor, and Parts*—those repairs, services, labor, and parts, which based on the judgement, training, and experience of the supplier will be foreseeably required in order to achieve the results desired by the consumer who requests repairs and services.

*Necessary Repairs, Services, Parts and Labor*—those repairs, services, parts and labor which, in the judgement of the supplier, are required to fully remedy or prevent a defect or malfunction.

*Original Estimate*—an approximation of the cost of anticipated repairs and services to be performed by a supplier which does not exceed the subsequent actual cost of such anticipated repairs and services by more than 25 percent.

*Supplier*—any new or unused vehicle dealer who furnishes or supplies vehicle repairs and services, either directly or through the employment of other mechanics or repairmen; provided, however, that vehicle repairs and services performed on vehicles over 20,000 pounds, GVWR are excluded for the purposes of Chapter 11.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

#### **§1103. Unfair Acts and Practices**

[Previously §1503]

A. It shall be an unfair act or practice, in connection with a transaction involving motor vehicle repairs and services for a supplier of such repairs and services to do any of the following:

1. if specifically requested by consumer, when the anticipated repairs exceed \$125, then to fail to provide in advance, to a consumer seeking repairs and services, a written original estimate of the cost to the consumer of all anticipated repairs and service, including any charge for disassembly or reassembly of any parts disassembled for inspection and any service charge of any type to be imposed:

a. such written estimate shall include, in separate columns an itemized list of each anticipated repair to be performed, the anticipated labor charge involved for each repair, and the cost to the consumer of anticipated parts to be replaced;

b. the requirement of §1103 shall be satisfied by the statement of a flat rate price if such repairs and services are customarily done and billed on a flat rate basis;

c. notwithstanding anything herein to the contrary, if disassembly for inspection is necessary to determine the extent of anticipated repairs before an original estimate can be given, then any charge for such disassembly and/or reassembly shall be disclosed in advance: provided further that the amount of the charge referred to herein shall not be conditioned upon the consumer consenting to performance of the inspection by the supplier who performs said inspection;

d. a fair charge may be made by the supplier for the service of preparing this written estimate; said charge not to exceed \$5 for an estimate up to \$200 and not to exceed \$10 for estimate in excess of \$200 if same is made on the premises of the supplier, and notice of this charge must be posted as designated in §1103.A.3;

2. if an original written estimate is requested by a consumer, then, to fail to obtain oral or written authorization from the consumer for subsequently arising unanticipated, but necessary, repairs, services, parts and labor, when those repairs, services, parts and labor will exceed the cost estimated in the original estimate, or itemized part thereof, by more than 25 percent excluding tax:

a. when unanticipated, but necessary, repairs, services, parts and labor are needed and authorization to perform same is obtained from the consumer, the cost of these additional repairs, services, parts and labor shall be separately estimated in writing and a copy of this separate estimate made available to the consumer;

3. to fail to post in a conspicuous place in the service reception area a sign with a white background and having black letters at least 1 inch in weight which reads as follows:

a. Notice to Our Customers

You may request a written estimate, in advance, before authorizing us to repair your vehicle if it is anticipated that such repairs might exceed \$125. Our charge for such estimate is \$\_\_ for any job up to \$200 and \$\_\_ for jobs in excess of \$200;

b. provided that the supplier makes no charge for a written estimate then he may delete the last sentence of the above notice and insert in its place a statement that no charge is made for the estimate;

c. provided further that the supplier may at his option, change the \$125 requirement to a lesser amount;

4. to fail to reassemble any parts disassembled for inspection unless the consumer is so advised prior to acceptance for inspection by the supplier;

5. to willfully represent that repairs are necessary when such is not the fact;

6. to willfully represent that repairs have been made when such is not the fact;

7. to willfully represent that the parts being inspected or diagnosed are in a dangerous condition or that the consumer's continued use of them may be harmful to him when such is not the fact;

8. to willfully understate or misstate the estimated cost of repairs, services, parts and labor in excess of 25 percent for the purpose of inducing a consumer to enter into a transaction for repairs and services;

9. to fail to disclose the intended use of used parts in conjunction with repairs and services, or to install used parts without the knowledge and consent of the consumer;

10.a. to fail to provide the consumer with an itemized bill indicating repairs and services actually performed, parts actually replaced, or materials actually used, the total labor charge, and the name of the mechanic, repairman, or supplier who performed the work;

b. the requirements of §1103.A.10.a shall be satisfied by a bill reflecting a flat rate price if such repairs and services are customarily done and billed on a flat rate basis.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### §1105. Replaced Parts

#### [Previously §1505]

A. Upon request of the consumer at the time the repair order is written, the supplier shall then tender to such consumer any replaced parts at the time the job is delivered, unless the parts are to be rebuilt or sold by the supplier, or if the part is a warranty part that must be returned to the manufacturer, and such intended reuse or return is made known to the consumer at the time of the request.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

## Chapter 13. New Motor Vehicle Auto Shows

### §1301. Authorization for Auto Show

A. The commission may authorize or prohibit motor vehicle sales and shows at offsite locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### §1303. Application for Show Permit

A. The organizer or promoter of a new motor vehicle auto show shall be required to obtain a license from the commission and its request for a license shall consist of the following:

1. the application shall be on a form prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2. a license fee of \$500;

3. the license shall be for the new motor vehicle auto show subject of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

### §1305. Show Requirements

A. The application must be submitted to the commission no less than 60 days prior to the opening date of the event and must include a list of all licensed motor vehicle dealers within the geographical area.



B. Only licensed motor vehicle dealers may conduct sales of motor vehicles at such sales and shows.

C. The show must be for a particular geographical area, not less than a parish. The geographical area cannot include a part of a parish.

D. All licensed motor vehicle dealers within the show's geographical area must be offered the opportunity to participate in the show.

E. A majority of the licensed motor vehicle dealers within the show's geographical area must participate in the event.

F. Each respective manufacturer shall grant authority to the respective dealers participating to conduct the sale or show of motor vehicles at the proposed offsite location.

G. A licensed motor vehicle dealer may participate in only two shows in a calendar year.

H. Not less than 30 days prior to the opening day of the show the commission must receive a list of all participating licensed motor vehicle dealers together with the consent of each respective manufacturer.

I. Participation by a licensed motor vehicle dealer shall include display of vehicles and presence of dealer personnel

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

#### **Chapter 17. Motor Vehicle Lessor**

##### **§1701. Qualifications and Eligibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985).

##### **§1703. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985), repealed LR 36:

#### **Chapter 19. Marine Products Area of Responsibility**

##### **§1901. Uniform Procedures to Designate the Territory Assigned to a Marine Dealer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2482 (November 2004), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:

##### **§1903. Procedure for Appointing Independent Marine Surveyor**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:771.

HISTORICAL NOTE: Promulgated by Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2482 (November 2004), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:

##### **§1905. Procedure of Designation of Area of Responsibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:2481 (November 2004), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This Rule is designed to help the family to obtain the information and help needed to own their own automobile.

#### **Small Business Statement**

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Any person may submit data, views or positions, orally or in writing to the Louisiana Motor Vehicle Commission, 3519 Twelfth Street, Metairie, LA 70002 or by telephoning at 504-838-5207 and facsimile 504-838-5416.

Lessie A. House  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Provisions**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The revision and simplification of existing rules will not have any impact on expenditures for state or local governmental units as policies which have been standard practice for many years have been incorporated into the administrative rules.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed rule will not effect revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rules will have little or no effect on directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Lessie House  
Executive Director  
1004#011

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Early and Periodic Screening, Diagnosis and Treatment  
Personal Care Services  
(LAC 50:XV.Chapter 73)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.Chapter 73 under 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing personal care services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to clarify certain provisions (*Louisiana Register*, Volume 30, Number 2). The department subsequently amended the provisions governing the reimbursement methodology for EPSDT personal care services (PCS) to implement an hourly wage enhancement payment to providers for personal care workers (*Louisiana Register*, Volume 33, Number 11). The department now proposes to amend the provisions governing EPSDT personal care services to further clarify these provisions, to revise the reimbursement methodology to be consistent with current payment methodologies, and to expand provider participation requirements. This proposed Rule will also reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis and Treatment**

**Chapter 73. Personal Care Services**

**§7301. General Provisions**

A. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) personal care services are medically necessary tasks as they pertain to an EPSDT eligible recipient's physical requirements when physical limitations due to illness or injury necessitate assistance with activities of daily living.

1. - 2. Repealed.

B. The mission of personal care services (PCS) is to enable an EPSDT recipient to receive necessary services on an outpatient basis rather than an inpatient basis to the extent that services on an outpatient basis are projected to be more cost effective than services rendered on an inpatient basis.

C. Recipients of EPSDT personal care services shall be allowed the freedom to select a personal care service provider of their choice.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§7303. Services**

A. EPSDT personal care services provide assistance with the distinct tasks associated with the performance of the activities of daily living.

B. EPSDT personal care services include:

1. - 3. ...

4. performance of incidental household services essential to the client's health and comfort in her/his home. Examples of such activities are changing and washing bed linens and rearranging furniture to enable the recipient to move about more easily in his/her own home; and

5. accompanying the recipient to and from his/her physician and/or medical facility for necessary medical services.

6. - 8. Repealed.

C. Service Exclusions. EPSDT personal care services shall not be used to:

1. meet childcare needs;

2. substitute for the parent in the absence of the parent;

3. provide respite care to the primary caregiver; or

4. provide transportation to and from the recipient's medical appointments.

D. EPSDT personal care services shall be prior authorized by the department or its designee. The plan of care must be submitted for review and approval by the department or its designee prior to service delivery.

E. The individual's attending physician shall complete a face-to-face medical assessment and develop a plan of care based on the medical assessment.

1. The plan of care must specify:

a. the personal care service(s) to be provided (i.e., activities of daily living for which assistance is needed); and

b. the minimum and maximum frequency and the minimum duration of each of these services.

2. A new plan of care must be submitted at least every 180 days (rolling six months) with approval by the recipient's attending physician.

3. Amendments or changes in the plan of care should be submitted as they occur and shall be treated as a new plan of care which begins a new six-month service period.

F. Recipients who have been designated by DHH as chronic needs cases are exempt from the standard prior authorization process. Although a new request for prior authorization (PA) must still be submitted every 180 days, the provider shall only be required to submit a PA request

form accompanied by a statement from the attending physician verifying that the recipient's condition has not improved and the services currently approved must be continued.

G. Place of Service. EPSDT personal care services must be provided in the recipient's home or in another location if the services are medically necessary for the recipient to be outside of the home.

1. The recipient's home is defined as the place where he/she resides, such as a:

- a. house/apartment;
- b. custodial relative's home;
- c. boarding house;
- d. foster home;
- e. substitute family home;
- f. supervised living facility; or
- g. unpaid primary caregiver.

2. The following institutions are not considered to be a recipient's home:

- a. a hospital;
- b. an institution for mental disease;
- c. a nursing facility;
- d. an intermediate care facility for persons with developmental disabilities; or
- e. a residential treatment center.

H. Service Limits. EPSDT personal care services are not subject to service limits. The units of service approved shall be based on the physical requirements of the recipient and medical necessity for the services available in the EPSDT-PCS Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7305. Recipient Qualifications**

A. EPSDT personal care services shall be available to Medicaid recipients from birth through 20 years of age (EPSDT eligible), and who have been prescribed EPSDT PCS as a medically necessary service by an attending physician.

1. Repealed.

B. Personal care services for EPSDT recipients must meet medical necessity criteria as established by the department.

1. EPSDT personal care services are medically necessary if the recipient:

- a. meets criteria equivalent to at least an Intermediate Care Facility I (ICF-1) level of care; and
- b. requires assistance with at least two activities of daily living.

2. To establish medical necessity, the parent or guardian must be physically unable to provide personal care services to the child.

3. Repealed.

C. A parent or other caregiver must be in the home with an EPSDT PCS recipient 14 years of age or younger. Recipients over 14 years of age must be mentally and intellectually competent to direct their own care if they are to be left with the PCS worker without the presence of a parent or other caregiver.

D. EPSDT personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the plan of care occur.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7307. Provider Participation**

A. Medicaid enrollment as a PCS provider is limited to providers in Louisiana and out-of-state providers only in the trade areas of states bordering Louisiana (Arkansas, Mississippi, and Texas).

1. – 2. Repealed.

B. In order to participate in the Medicaid Program as a personal care services provider, an agency:

1. must comply with:

- a. state licensing and Medicaid regulations;
- b. Medicaid provider enrollment requirements;
- c. the standards of care set forth by the Louisiana Board of Nursing; and
- d. the policy and procedures contained in the EPSDT personal care services provider manual; and

2. must possess a current, valid license to provide personal care attendant services issued by the Department of Health and Hospitals, Health Standards Section.

C. In addition, the Medicaid enrolled PCS agency must:

1. employ a sufficient number of personal care and supervisory staff to ensure adequate coverage in the event that a worker's illness or an emergency prevents him/her from reporting to work;

2. ensure that a criminal background check is conducted on all direct care and supervisory staff prior to a permanent offer of employment being made;

a. a personal care worker may be assigned temporarily to provide services to a recipient prior to the results of the criminal background check if the services are performed under the direct supervision of a permanent employee or in the presence of a member of the recipient's immediate family or a caregiver designated by the recipient's immediate family;

3. ensure that the direct care and supervisory staff are qualified to provide personal care services;

a. each provider must have and implement a written plan of supervision for all PCS workers;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations;

5. ensure that recipients are eligible for services by accessing the appropriate Medicaid eligibility verification system at the beginning of each month in the service authorization period;

6. have a written policy and procedures manual describing the provisions governing the agency's operations, including an informal and formal resolution process to address recipient complaints;

7. have a written quality assurance plan to monitor recipient satisfaction with services on an ongoing basis;

8. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

9. ensure that all individuals providing personal care services meet all training and certification requirements applicable under state law and Medicaid regulations;

10. report all suspected cases of neglect, physical, mental, or sexual abuse to the appropriate authorities;

a. this includes any other circumstances that place the recipient's health and safety at risk;

11. respond within five working days and take appropriate action when contacted by the department concerning matters of service delivery, case management referrals and recipient complaints; and

12. have a written policy to address recipient complaints. The written policy shall be available for review by the department or its designee upon request.

#### D. Documentation

1. Documentation of the EPSDT personal care services provided shall include at a minimum, the following:

a. documentation of the approval of services by the department or its designee;

b. daily notes by the PCS provider denoting date of service, services provided (checklist is adequate);

c. total number of hours worked;

d. time period worked;

e. condition of recipient;

f. service provision difficulties;

g. justification for not providing scheduled services;

and

h. any other pertinent information.

2. There must be a clear audit trail between:

a. the prescribing physician;

b. the personal care services provider agency;

c. the person providing the personal care services to the recipient; and

d. the services provided and reimbursed by Medicaid.

#### E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### §7309. Staffing Requirements

A. All staff providing direct care to the recipient must meet the qualifications for furnishing personal care services. Individuals who provide coverage in the absence of a PCS worker must meet all of the staffing requirements for the PCS worker or supervisor.

1. – 6.a. Repealed.

B. Personal care workers shall demonstrate:

1. empathy toward persons with disabilities;

2. an ability to provide care to the recipient; and

3. the maturity and ability to effectively deal with the demands of the job.

C. Personal Care Services Worker Qualifications.

1. PCS workers must be at least 18 years of age or older at the time the offer of employment is made. Verification of age must be maintained in each employee's personnel record.

2. All PCS workers must meet one of the following minimum education and experience qualifications:

a. a high school diploma or general equivalency diploma (GED);

b. a trade school diploma in the area of human services;

i. the area of human services includes, but is not limited to home health aide or certified nursing assistance training; or

c. verifiable and documented experience providing direct care services to the target population.

D. Restrictions. Staff assigned to provide personal care services shall not be a member of the recipient's immediate family.

1. Immediate family shall include the following persons:

a. father;

b. mother;

c. sibling (sister or brother);

d. spouse;

e. child;

f. grandparent;

g. in-law; or

h. any individual acting as a parent or guardian of the recipient.

NOTE: Personal care services may be provided by a person of a degree of relationship to the recipient, other than immediate family, if the relative is not living in the recipient's home or if he/she is living in the recipient's home solely because his/her presence in the home is necessitated by the amount of care required by the recipient.

#### E. Supervisor Qualifications

1. All direct care supervisors must be full-time employees and meet one of the following minimum education and experience qualifications:

a. have a bachelors degree from an accredited college or university in one of the following human service-related fields:

i. social work;

ii. psychology;

iii. sociology;

iv. physical therapy;

v. occupational therapy;

vi. recreational therapy; or

vii. counseling; and

b. have two years of paid experience in a human service-related field providing direct services to persons with disabilities; or

c. be a licensed registered nurse (RN) or a licensed practical nurse (LPN) with one year of paid experience as a RN or LPN providing direct services to persons with disabilities; or

d. have a high school diploma or GED and five years of paid experience providing direct care services to the persons with disabilities.

2. Thirty hours of graduate level course credit in any of the above-referenced human service-related fields may be substituted for one year of required paid experience.

#### F. Supervisory Responsibilities

1. The supervisor shall be responsible for the supervision of no more than 15 PCS workers.

2. The supervisor shall conduct an annual evaluation of each PCS worker's performance. The evaluation shall include:

- a. reviewing individual recipient cases;
- b. providing constructive feedback; and
- c. assisting staff to provide services in a more effective manner.

3. The supervisor shall:

- a. conduct quarterly face-to-face meetings with each PCS worker (not to be held at the recipient's residence);
- b. conduct quarterly unannounced visits to the recipient's residence to observe service delivery; and
- c. maintain onsite office hours at least 50 percent of the time during normal business hours or be continuously available to PCS workers by telephone or beeper when not onsite.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7311. Orientation and Training**

A. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment with the PCS agency. Orientation must be conducted onsite at the provider's office and documented in the employee's personal record. Documentation shall include the:

1. trainer or presenter's name and title;
2. trainer's agency affiliation (if applicable);
3. trainer's qualifications; and
4. dates and hours of the specific training.

B. The orientation provided to staff shall include, but is not limited to:

1. agency policies and procedures;
2. staff duties and responsibilities;
3. ethics and confidentiality;
4. record keeping;
5. a description of the population served by the agency; and
6. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with a disability.

C. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training. The training must be provided by a certified CPR and first aid instructor.

D. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The training curriculum must, at a minimum, include the following components:

1. communication skills;
2. observation, reporting and documentation of the recipient status and the care or service furnished;
3. basic infection control procedures;
4. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;
5. safe transfer techniques and ambulation;

6. appropriate and safe techniques in personal hygiene and grooming that include:

- a. bed bath;
- b. sponge, tub, or shower bath;
- c. sink, tub, bed shampoo;
- d. nail and skin care;
- e. oral hygiene; and
- f. toileting and elimination;

7. recognizing emergencies and knowledge of emergency procedures, including the completion of incident/accident reports;

8. maintenance of a clean, safe and healthy environment; and

9. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

E. PCS workers and supervisors must satisfactorily complete a minimum of 20 hours of personal care related training within the first year of hire and annually thereafter. Annual training may include updates on the subjects covered in orientation and the initial training. Orientation and normal supervision are not considered annual training. This training must be documented in accordance with the provisions of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7313. Incident and Accident Reporting**

A. Direct care staff must report all incidents, accidents, suspected cases of abuse and/or neglect to the on-duty supervisor immediately.

1. If the recipient needs emergency assistance, the PCS worker shall call 911 or the local law enforcement agency before contacting the supervisor.

2. The Department of Social Services, Office of Community Services (OCS) shall be notified for incidents/accidents involving recipients who are 17 years of age or younger.

3. The Department of Health and Hospitals, Office of Aging and Adult Services (OAAS), Adult Protective Services (APS) shall be notified for incidents/accidents involving recipients who are 18-21 years of age.

B. Providers are responsible for documenting and maintaining the records of all incidents and accidents involving the recipient that occurred during the course of service delivery. The incident/accident report shall be maintained in the recipient's record. The report shall include, at a minimum, the:

1. date of the incident/accident;
2. circumstances surrounding the incident/accident;
3. description of medical attention required;
4. action taken to correct or prevent incident(s)/accident(s) from occurring again; and
5. name of the person completing the report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7315. Reimbursement Methodology**

A. Reimbursement for EPSDT personal care services shall be the lesser of billed charges or the maximum unit rate set by the department. The maximum rate is a flat rate for each approved unit of service provided to the recipient. This rate shall be adjusted as necessary by the department.

1. One quarter hour (15 minutes) is the standard unit of service, exclusive of travel time to arrive at the recipient's home.

2. The entire 15 minutes shall have been spent providing personal care services in order to be reimbursed for a unit.

#### **B. Personal Care Workers Wage Enhancement.**

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage enhancement shall be paid to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to personal care workers shall be the current minimum wage plus 75 percent of the wage enhancement.

2. Providers shall be required to submit a certified wage register to the Department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the personal care worker(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the Department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers shall be subject to audit by the Department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to personal care workers may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;
- c. Medicaid fraud charges; and
- d. disenrollment in the Medicaid Program.

C. Reimbursement will not be made for EPSDT personal care services that are:

1. not appropriate tasks for personal care as identified in these provisions and the EPSDT PCS provider manual;
2. for dates of service that are not included in the plan of care;

3. for services rendered prior to approval of the plan of care; or

4. provided in an education setting if the services duplicate services that must be provided by the Department of Education.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7317. Provider Responsibilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7319. Agency Responsibilities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7321. Reimbursement**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003), amended LR 33:2202 (October 2007), repromulgated LR 33:2425 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§7323. Nonreimbursable Services**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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 or autonomy as described in R.S. 49:972.

## Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

## Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Early and Periodic Screening, Diagnosis and Treatment—Personal Care Services**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$2,132 (\$1,066 SGF and \$1,066 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$1,066 will be collected in FY 09-10 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 rule proposes to amend the provisions governing personal care services (PCS) in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to further clarify these provisions, to revise the reimbursement methodology to be consistent with current payment methodologies, and to expand provider participation requirements. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 09-10, FY 10-11 and FY 11-12.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1004#047

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

#### Inpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Reduction (LAC 50:V.953, 955, 959)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.953, §955 and §959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). The bureau further reduced the reimbursement rates in anticipation of a budgetary shortfall in SFY 2010 (*Louisiana Register*, Volume 35, Number 5). In July 2009, an Emergency Rule was promulgated to provide a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 8). In October 2009, the bureau amended the July 1, 2009 Emergency Rule for supplemental payments to incorporate the provisions of the August 4, 2009 Emergency Rule which adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 10). The department also amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). In November 2009, the department amended the August 4, 2009

Emergency Rule to incorporate the provisions of the October 20, 2009 Emergency Rule and reorganized these provisions in the appropriate place in the *Louisiana Administrative Code (Louisiana Register, Volume 35, Number 11)*. In December 2009, the department promulgated an Emergency Rule to repeal the provisions for children's specialty hospitals which were erroneously incorporated into the rate alignment for acute care hospitals (*Louisiana Register, Volume 35, Number 12*). The department subsequently amended the provisions of the November 20, 2009 Emergency Rule in order to incorporate the provisions of the December 20, 2009 Emergency Rule (*Louisiana Register, Volume 36, Number 3*). This proposed Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule governing the reimbursement rate reduction to inpatient hospitals.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

## **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE**

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospitals**

#### **Chapter 9. Non-Rural, Non-State Hospitals**

##### **Subchapter B. Reimbursement Methodology**

#### **§953. Acute Care Hospitals**

A. – G.3. ...

H. Neonatal Intensive Care Units (NICU).

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU).

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in

this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.



2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

2. – 2.b. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health 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 35:1896 (September 2009), repromulgated LR, 35:2182 (October 2009), amended LR 36:

#### **§955. Long Term Hospitals**

A. – C. ...

D. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

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), repromulgated LR 35:2183 (October 2009), amended LR 36:

#### **§959. Inpatient Psychiatric Hospital Services**

A. – C. ...

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

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), repromulgated LR 35:2183 (October 2009), amended LR 36:

#### **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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Inpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$5,840,336 for FY 09-10, \$9,727,644 for FY 10-11 and \$13,282,645 for FY 11-12. It is anticipated that \$1,148 (\$574 SGF and \$574 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$25,696,906 for FY 09-10, \$25,710,038 for FY 10-11 and \$23,218,167 for FY 11-12. It is anticipated that \$574 will be expended in FY 09-10 for the federal administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule is being promulgated to continue the provisions of the March 20, 2010 emergency rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates (approximately 103 hospitals). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Hospital Program by approximately \$31,538,390 for FY 09-10, \$35,437,682 for FY 10-11 and \$36,500,812 for FY 11-12.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursements made for inpatient hospital services. The

reduction in payments may adversely impact the financial standing of hospitals and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1004#048

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons with  
Developmental Disabilities  
Reimbursement Rate Increase  
(LAC 50:VII.32903)

The Department of Health and Hospitals, 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICF/DD) to implement a wage enhancement payment for direct care staff employed with the facility (*Louisiana Register*, Volume 33, Number 10). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the per diem rate paid to non-state ICFs/DD (*Louisiana Register*, Volume 35, Number 2). The bureau also reduced the rate paid to ICFs/DD for leave of absence days (*Louisiana Register*, Volume 35, Number 9). As a result of the allocation of additional funds by the legislature during the 2009 Regular Session, the department amended the provisions governing the reimbursement methodology for ICF/DDs to increase the per diem rates (*Louisiana Register*, Volume 35, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2009 Emergency Rule.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care

#### Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

#### Chapter 329. Reimbursement Methodology

#### Subchapter A. Non-State Facilities

#### §32903. Rate Determination

A. - I.2.a. ...

J. Effective for dates of service on or after September 1, 2009, the reimbursement rate for non-state intermediate care facilities for persons with developmental disabilities shall be increased by 1.59 percent of the per diem rate on file as of August 31, 2009.

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:

### 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.

### Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate Increase

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of approximately \$108,787 for FY 09-10, \$2,615,490 for FY 10-11, and \$5,158,711 for FY 11-12. It is anticipated that \$738 (\$369 SGF and \$369 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48 percent). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61 percent. In the event of this decrease, the state general funds will increase to the federally required match.

#### 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 \$477,361 for FY 09-10, \$6,912,706 for FY 10-11, and \$9,017,466 for FY 11-12. It is anticipated that \$369 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48 percent). Additional federal funds are projected to be available in the current year through December 2010. To the extent that

DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61 percent. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$477,361 for FY 09-10, \$6,912,706 for FY 10-11, and \$9,017,466 for FY 11-12. It is anticipated that \$369 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48 percent). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61 percent. In the event of this decrease, the state general funds will increase to the federally required match.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will have no impact on competition and employment.

Don Gregory  
Medicaid Director  
1004#049

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Medicaid Eligibility  
Express Lane Eligibility  
(LAC 50:I.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 407 of the 2007 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to utilize income determinations made by the Food Stamp Program, Women, Infants and Children (WIC) Program or the National School Lunch Program to determine income eligibility for the Medicaid Program or the Louisiana Children's Health Insurance Program (LaCHIP) as soon as federal legislation allowing the same was enacted. Federal regulations in the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 established provisions to allow states to rely on a finding from an Express Lane agency to more effectively reach out and enroll eligible, but uninsured, children in the Medicaid Program. Express Lane eligibility is an administrative streamlining option that uses data from other government

agencies to identify, enroll and retain children who are eligible for Medicaid or the Children's Health Insurance Program (CHIP). In compliance with Act 407 and CHIPRA of 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish Express Lane eligibility in order to expedite identification and enrollment of uninsured children in the Medicaid/LaCHIP Program (*Louisiana Register*, Volume 35, Number 10). The department promulgated an Emergency Rule to amend the October 10, 2009 Emergency Rule to clarify which agencies' data will be used for Express Lane eligibility determinations and to add additional agencies which may provide data (*Louisiana Register*, Volume 36, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2010 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 1. General Administration**

**Chapter 11. Express Lane Eligibility**

**§1101. General Provisions**

A. The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, Public Law No. 111-3, established provisions which allowed states to rely on a finding from an Express Lane agency to more effectively reach out and enroll eligible but uninsured children in the Medicaid Program or the Children's Health Insurance Program (CHIP).

B. Express Lane eligibility is an administrative streamlining option that uses data from other government agencies to identify, enroll and retain children who are eligible for Medicaid or CHIP.

C. Express Lane eligibility shall be utilized for enrollment of uninsured children under the age of 19.

D. These provisions shall not apply to eligibility determinations made after September 30, 2013.

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:

**§1103. Eligibility Determinations**

A. The department shall rely on the findings from an Express Lane agency to satisfy one or more of the eligibility components (regardless of any differences in the income budget unit, disregards, deeming of income or other methodologies) required to make an eligibility determination.

1. An Express Lane agency is a public agency that is determined by the department to be capable of making the determinations of one or more of the eligibility requirements defined in the Medicaid State Plan. Express Lane agencies are need-based programs/agencies.

B. The department shall utilize eligibility findings from Express Lane agencies that administer the:

1. Food and Nutrition Act of 2008 (Supplemental Nutrition Assistance Program/SNAP, also known as the Food Stamp Program);

2. Richard B. Russell National School Lunch Act (Free Lunch Program);

3. Child Nutrition Act of 1966 (Women, Infants and Children (WIC) Program);

4. Temporary Assistance for Needy Families (TANF) under Title IV-A;
5. Head Start Act;
6. state program funded under Title IV-D (Child Support Enforcement Services/SES);
7. Child Care and Development Block Grant Act of 1990;
8. Stewart B. McKinney Homeless Assistance Act, the U. S. Housing Act of 1937; and
9. Native American Housing Assistance and Self-Determination Act of 1996.

C. Verification requirements for citizenship or nationality status are applicable to Express Lane eligibility determinations.

D. If a finding from an Express Lane agency results in a determination that a child does not satisfy an eligibility requirement for Medicaid or CHIP, the department shall determine eligibility for assistance using its regular procedures.

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:

#### **§1105. Automatic Enrollment**

A. The department may initiate and determine Medicaid eligibility based on data from sources other than the child (or the child's family) without an application form; however, a child can only be automatically enrolled for coverage if the:

1. child or family consents to being enrolled through affirmation and signature on an Express Lane agency application; and
2. department has informed the parent, guardian or custodial relative of the:
  - a. services that will be covered;
  - b. appropriate methods for using such services;
  - c. premium or other cost-sharing charges that apply (if applicable);
  - d. medical support obligations created by enrollment (if applicable); and
  - e. actions the parent, guardian or relative must take to maintain enrollment and renew coverage.

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:

#### **§1107. Disclosure of Eligibility Data**

A. Notwithstanding any other provisions of law, Express Lane agencies in possession of data directly relevant to Express Lane eligibility determinations shall convey such data to the department and shall ensure that the individual (or his parent, guardian, caretaker relative, authorized representative) whose circumstances are described in the data has either provided consent to disclosure, or has not objected to disclosure.

1. Such individuals shall be provided with advance notice of disclosure and a reasonable opportunity to object to the disclosure of their information.

B. Express Lane agency sources of data shall include, but is not limited to, the following:

1. eligibility files;

2. unemployment compensation benefits;
  3. wages and income information;
  4. Social Security Administration and Internal Revenue Service information;
  5. employer wage reports to a state agency;
  6. vital records information about births in any state;
- or
7. third party health insurance information.

#### **C. Improper Disclosure Penalties**

1. Civil Monetary Penalty. A private entity that publishes, discloses, or makes known in any manner or to any extent not authorized by the department any information obtained for the purposes of Express Lane eligibility may be subject to civil monetary penalties for each unauthorized publication or disclosure, pursuant to §1942 of Title XIX of the Social Security Act.

2. Criminal Penalty. A private entity that willfully publishes, discloses, or makes known in any manner or to any extent not authorized by the department any information under this section shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both, for each unauthorized publication or disclosure.

3. The limitations and requirements that apply to Express Lane eligibility data disclosure shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under federal law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by expediting access to Medicaid services for children who would be otherwise uninsured.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Medicaid Eligibility  
Express Lane Eligibility**

**NOTICE OF INTENT  
Department of Health and Hospitals  
Bureau of Health Services Financing**

Nursing Facilities  
Reimbursement Rate Reduction  
(LAC 50:VII.1305)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of approximately \$108,787 for FY 09-10, \$2,615,490 for FY 10-11, and \$5,158,711 for FY 11-12. It is anticipated that \$738 (\$369 SGF and \$369 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

**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 \$477,361 for FY 09-10, \$6,912,706 for FY 10-11, and \$9,017,466 for FY 11-12. It is anticipated that \$369 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule proposes to continue the provisions of the October 10, 2009 and January 20, 2010 emergency rules which adopted provisions to establish Express Lane eligibility in order to expedite identification and enrollment of uninsured children in the Medicaid/LaCHIP Program. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$585,410 for FY 09-10, \$9,528,196 for FY 10-11 and \$14,176,177 for FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will have no impact on competition and employment.

Don Gregory  
Medicaid Director  
1004#050

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. In the event the department projects that expenditures in the Medical Vendor Program may exceed the funding allocated in the General Appropriations Act, the secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid Program as necessary to control expenditures to the level of funding appropriated by the legislature. Notwithstanding any law to the contrary, the secretary may utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law. 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 and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 10).

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act, the department promulgated an Emergency Rule to reduce the reimbursement rates paid to non-state nursing facilities (*Louisiana Register*, Volume 35, Number 7). The department promulgated an Emergency Rule to amend the July 3, 2009 Emergency Rule in order to repeal the provisions governing the reduction to the per diem rates of non-state nursing facilities and maintained the reduction to the wage enhancement (*Louisiana Register*, Volume 35, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2009 Emergency Rule.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part VII. Long Term Care Services  
Subpart 1. Nursing Facilities**

**Chapter 13. Reimbursement  
§1305. Rate Determination**

- A. - D.1.h.Example. ...  
i. For dates of service on or after July 3, 2009, the facility-specific direct care rate will be adjusted in order to

reduce the wage enhancement from \$4.70 to a \$1.30 wage enhancement prior to the case-mix adjustment for direct care staff. The \$1.30 wage enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

i. Effective with the next rebase, on or after July 1, 2010, the wage enhancement will be eliminated.

D.2. – 4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

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 28:1791 (August 2002), 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:

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Nursing Facilities; Reimbursement Rate Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of approximately \$3,882,117 for FY 09-10 and no fiscal impact in FY 10-11 and FY 11-12. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 09-10 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 decrease federal revenue collections by approximately \$17,080,337 for FY 09-10 and will have no impact on revenue collections in FY 10-11 and FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses 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 rule proposes to continue the provisions of the October 20, 2009 emergency rule which reduced the reimbursement rates paid to non-state nursing facilities (approximately 6,500,000 days of service). It is anticipated that implementation of this proposed rule will reduce nursing facility reimbursements by approximately \$20,962,864 for FY 09-10. There will be no fiscal impact for FY 10-11 and FY 11-12 due to rebasing of the nursing facility reimbursement rates.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition or employment.

Don Gregory  
Medicaid Director  
1004#051

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

Pediatric Day Health Care Program  
(LAC 50:XV.Chapters 275-281)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapters 275-281 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 and Hospitals, Bureau of Health Services Financing proposes to implement pediatric day health care services as an optional covered service in the Medical Assistance Program. These services are intended to be a community-based alternative to traditional long-term care services or in-home nursing services for medically

fragile individuals up to the age of 21 who require skilled nursing care and therapeutic interventions during all or part of the day.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services For Special Populations**

##### **Subpart 19. Pediatric Day Health Care**

#### **Chapter 275. General Provisions**

##### **§27501. Program Description and Purpose**

A. Pediatric day health care (PDHC) services are an array of services that are designed to meet the medical, social and developmental needs of medically fragile individuals up to the age of 21 who require continuous nursing services and other therapeutic interventions. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

B. These services are provided in a non-residential setting which is licensed as a PDHC facility and enrolled to participate in the Medicaid Program.

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:

##### **§27503. Recipient Criteria**

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

1. be from birth up to 21 years of age;
2. be considered medically fragile; and
3. require nursing supervision and may require therapeutic interventions all or part of the day due to a medically complex condition.

B. For the purposes of this Chapter, medically fragile means that the individual has a medically complex condition characterized by multiple, significant medical problems that require extended care.

1. Medically fragile conditions include, but are not limited to:

- a. severe lung disease requiring oxygen;
- b. severe lung disease requiring ventilator or tracheotomy care;
- c. complicated spina bifida;
- d. heart disease;
- e. malignancy;
- f. asthmatic exacerbations;
- g. cystic fibrosis exacerbations;
- h. neuromuscular disease;
- i. encephalopathies; or
- j. seizure disorders.

C. Parental Availability. PDHC services may be furnished to a recipient, whose parent or guardian is not available to provide care due to employment, attending school or having a medical or mental condition that would prevent him/her from providing appropriate care for the child.

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:

#### **Chapter 277. Services**

##### **§27701. Service Coverage and Limitations**

A. The Medicaid Program will reimburse a pediatric day health care facility for the following covered services:

1. nursing care;
2. respiratory care;
3. physical therapy;
4. speech-language therapy;
5. occupational therapy;
6. social services;
7. personal care services;
8. transportation to and from the PDHC facility; and
9. one or more meals and snacks per day depending

on the child's length of stay.

B. Non-covered Services. The following services do not qualify as covered PDHC services:

1. education and training services;
2. before and after school care;
3. medical equipment, supplies and appliances;
4. parenteral or enteral nutrition; or
5. infant food or formula.

C. PDHC facility services must be prescribed by the recipient's prescribing physician and an individualized plan of care must be developed for the recipient by the PDHC facility.

D. PDHC services must be prior authorized by the Medicaid Program or its approved designee. Services provided without authorization shall not be considered for reimbursement, except in the case of retroactive Medicaid eligibility.

E. Service Limitations. Services may be provided seven days per week and up to 12 hours per day for qualified Medicaid recipients as documented in the plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Chapter 279. Provider Participation**

##### **§27901. General Provisions**

A. In order to participate in the Medicaid Program, a facility must have a current, valid PDHC facility license issued by the department. Each PDHC facility site shall be separately enrolled in the Medicaid Program.

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

C. All enrolled PDHC services providers must comply with all of the licensing standards adopted for pediatric day health care facilities.

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:

#### **Chapter 281. Reimbursement Methodology**

##### **§28101. General Provisions**

A. Reimbursement for PDHC services shall be a statewide fixed per diem rate which is based on the number of hours that a qualified recipient attends the PDHC facility.



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

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

B. Reimbursement shall only be made for services authorized by the Medicaid Program or its approved designee.

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:

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 effect on family functioning, stability, or autonomy as described in R.S. 49:972 as it will offer an alternative health care choice to medically fragile Medicaid recipients who are receiving in-home nursing care.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Pediatric Day Health Care Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of approximately \$328 for FY 09-10, \$752,392 for FY 10-11, and \$1,196,920 for FY 11-12. It is anticipated that \$656 (\$328 SGF and \$328 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

#### **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 \$328 for FY 09-10, \$1,988,562 for FY 10-11, and \$2,092,225 for FY 11-12. It is anticipated that \$328 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48 percent). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61 percent. In the event of this decrease, the state general funds will increase to the federally required match.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule proposes to adopt provisions to establish pediatric day health care (PDHC) services as a state plan service in the Medical Assistance Program (anticipate approximately 36 recipients). It is anticipated that implementation of this proposed rule will increase expenditures for PDHC services by \$2,740,954 for FY 10-11 and \$3,289,145 for FY 11-12.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Don Gregory  
Medicaid Director  
1004#052

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

Pharmacy Benefits Management Program  
Restoration of the Dispensing Fee  
(LAC 50:XXIX.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 32, Number 6). Act 801 of the 2006 Regular Session of the Louisiana Legislature directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. In order to comply with the directives of Act 801, the department promulgated a Rule amending the provisions of the June 20, 2006 rule governing methods of payments to

increase the dispensing fee on prescription drugs (*Louisiana Register*, Volume 34, Number 1). CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. The department promulgated an Emergency Rule to repeal the January 20, 2008 Rule and restore the repealed provisions of the June 20, 2006 Rule in the *Administrative Code* (*Louisiana Register*, Volume 36, Number 1). This proposed Rule is being promulgated to continue the provisions of the December 21, 2009 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXIX. Pharmacy**

**Chapter 9. Methods of Payment**

**Subchapter A. General Provisions**

**§901. Definitions**

\* \* \*

*Brand Name*—any registered trade name commonly used to identify a drug.

*Dispensing Fee*—Repealed.

*Legend Drugs*—drugs which bear the federal legend: “Caution: federal law prohibits dispensing without a prescription.”

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended LR 34:87 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Subchapter B. Maximum Allowable Overhead Cost**

**§915. Cost Determination**

**A. Definitions**

*Adjustment Factors*—

- a. CPI—all item factor;
- b. CPI—medical care factor;
- c. Wage Factor. Each of the above adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the overhead year and by the value of the index one year earlier (December of the second preceding year);
- d. ROI. One year treasury bill rate applied to a portion of prescription drug cost (17 percent) in recognition of inventories maintained for the purpose of filling prescriptions.

*Base Rate*—the rate calculated in accordance with §917.A.2, plus any base rate adjustments which are in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the 1990/91 fee survey findings of average cost for pharmacies representative of the average pharmacy participating in Medicaid reimbursement (15,000 - 50,000 Rx volume). This rate was then inflated forward to December 1990 to establish the first overhead cost maximum.

*Base Rate Components*—the base rate is the summation of the components shown below. Each component is intended to set the maximum allowable for the costs indicated by its name.

Base Rate Component	Adjustment Factor
Pharmacist Salaries	CPI-Medical Care
Other Salaries	WAGE
Other Routine Services	CPI-All Items
Inventory Cost	ROI(1)
Fixed Cost	None(2)
Return on Equity	None (3)
	(1)No return on equity allowed
	(2)No inflation allowed
	(3)Adjusted by ROE Factor
	(4)Indices

a. CPI—All Items. *The Consumer Price Index for all Urban Consumers - Southern Region* (all items line of Table 12) as published by the United States Department of Labor.

b. CPI—Medical Care. *The Consumer Price Index for all Urban Consumers - Southern Region* (Medical Care line of Table 12) as published by the United States Department of Labor.

c. Wage. The average annual wage for production or nonsupervisory service workers as furnished by the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be utilized to calculate the adjustment factor based upon the change which has occurred since December of the preceding year.

d. ROI; Interest Rates—Money and Capital Markets. The average percent per year for one year U.S. Treasury bills taken from the *Federal Reserve Bulletin* report on Money Market Rates (line 17) for the preceding calendar year.

*Maximum Allowable Overhead Cost*—overhead cost is determined through use of cost survey results adjusted by various indices to assure recognition of costs which must be incurred by efficiently and economically operated providers. The cost determined is referred to as a maximum allowable to reflect application of the "lesser of" methodology for determining total reimbursement.

*Overhead Year*—the one-year period from July 1 - June 30 of the next calendar year during which a particular rate is in effect. It corresponds to a state fiscal year.

**B. Determination of Limits.** Limits on overhead cost are established through the overhead cost survey process which classifies cost in accordance with generally accepted accounting principles and Medicare principles regarding the allowability of cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§917. Maximum Allowable Overhead Cost Calculation**

**A.** The most recent cost survey results will be utilized to establish base cost for professional salaries; other salaries; other routine costs; and fixed cost. Claims processing data for claims paid in the current overhead period will be

utilized to determine average drug cost. Seventeen percent of this cost will be utilized as base prescription inventory. The base prescription inventory amount shall not be added to the overhead cost maximum allowable. Base prescription inventory is recognized as an allowable investment subject to a return on investment only. Calculation of maximum allowable overhead cost per prescription shall be performed as follows:

1.  $NORC = ORC \times CPIF$ :
  - a. NORC is the new other routine cost component;
  - b. ORC is the current (base) routine cost component;
  - c. CPIAI is the CPI - All items Economic Adjustment Factor.
2.  $NPS = PS \times CPIMC$ :
  - a. NPS is the new pharmacist salaries cost component;
  - b. PS is the current (base) pharmacist salaries cost component;
  - c. CPIMC is the CPI - Medical Care Economic Adjustment Factor.
3.  $NOS = OS \times W$ :
  - a. NOS is the new other salaries cost component;
  - b. OS is the current (base) salaries cost component;
  - c. W is the Wage Economic Adjustment Factor.
4.  $NROI = ROI \times IR$ :
  - a. NROI is the new return on investment component;
  - b. ROI is 17 percent of the current average drug cost;
  - c. IR is the Interest Rate - Money and Capital

Markets

5.  $Rate = (NORC + NPS + NOS + FCC) \times ROEF + NROI$  where:
  - a. NORC, NPS, NOS, and NROI are computed by formulae in Paragraphs 1-4 above;
  - b. FCC is the fixed cost component which does not include prescription drug inventory;
  - c. ROEF is the return on equity factor of 1.05 applied to all cost components except return on investment which is calculated separately.

B. After formal adoption of the new maximum allowable overhead cost, the components computed above will become the base components used in calculating the next year's overhead maximum allowable, unless they are adjusted as provided in §911 below.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### §919. Parameters and Limitations

A. Method of Calculation. All calculations described herein shall be carried out algebraically.

B. Rounding in all calculations the base maximum allowable and the base components will be rounded to the nearest one cent (two decimal places) and the Economic Adjustment Factors will be rounded to four decimal places.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### §921. Interim Adjustment to Overhead Cost

A. If an unanticipated change in conditions occurs which affects the overhead costs of at least 50 percent of the enrolled providers by an average of five percent or more, the maximum allowable overhead cost may be adjusted. Medicaid of Louisiana will determine whether or not the maximum allowable overhead cost limit should be changed when requested to do so by 10 percent of the enrolled pharmacies. The burden of proof as to the extent and cost effect of the unanticipated charge will rest with the entities requesting the change. Medicaid of Louisiana, however, may initiate an adjustment without a request to do so.

1. Temporary Adjustments. Temporary adjustments do not affect the base cost used to calculate a new maximum allowable overhead cost limit. Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, occur after the end of the period covered by the index, i.e., after the December preceding the limit calculation. Temporary adjustments are effective only until the next overhead cost limit calculation which uses economic adjustment factors based on index values computed after the change causing the adjustment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### §923. Cost Survey

A. Every three years a cost survey shall be conducted which includes cost data for all enrolled pharmacy providers. Participation shall be mandatory for continued enrollment as a pharmacy provider. Cost data from providers who have less than 12 months of operating data shall not be utilized in determining average overhead cost or grouping providers by prescription volume. Pre-desk reviews shall be performed on all cost surveys to determine an average provider profile based upon total prescription volume. Through statistical analysis, minimum and maximum volume ranges shall be established which represent the majority of providers participating in Medicaid reimbursement. Cost surveys of providers whose prescription volumes are above or below the volume range established, shall not be utilized in calculating average overhead cost. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

B. Cost Finding Procedures. The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of

dispensing prescriptions through generally accepted accounting principles.

C. Inflation Adjustment. Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate Consumer Price Index Indicator (Table 12, Southern Region, *Urban Consumer*) and wage indicator produced by the U.S. Department of Labor Statistics shall be utilized.

D. In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

1. an average usual and customary charge, or gross margin for each pharmacy;
2. the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription;
3. computation of the average percentage of markup per prescription; and
4. the computation of average usual and customary charges shall include adjustments to allow comparability with upper limits for prescription reimbursement utilized by Medicaid of Louisiana.

E. Statistical Analysis. Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

1. an average dispensing cost for pharmacies;
2. analysis of the correlations among overhead costs and parameters deemed relevant to pharmacy costs;
3. the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership, and number of Medicaid claims paid:
  - a. before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

F. Survey Results

1. Medicaid of Louisiana shall consider survey results in determining whether the maximum allowable overhead cost should be rebased. Where the overhead cost survey findings demonstrate the current maximum allowable is below average cost or above the eightieth percentile of cost, rebasing shall be required.

2. Medicaid of Louisiana may review the survey data and establish a new cost base utilizing the cost survey findings and any other pertinent factors, including, but not limited to:

- a. inflation adjustment;
- b. application of return on equity;
- c. recognition of inventory investment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88

(January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§925. Dispensing Fee**

A. Maximum Allowable Overhead Cost

1. The maximum allowable overhead cost will remain at the level established for state fiscal year 1994-95. This maximum allowable overhead cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the maximum allowable overhead costs.

B. Provider participation in the Louisiana Dispensing Fee Survey shall be mandatory. Failure to cooperate in the Louisiana Dispensing Fee Survey by a provider shall result in removal from participation as a provider of pharmacy services under Title XIX. Any provider removed from participation shall not be allowed to re-enroll until a dispensing fee survey document is properly completed and submitted to the bureau.

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter C. Average Wholesale Price**

##### **§935. Estimated Acquisition Cost Formula**

A. – B.1.c. ...

2. Louisiana's maximum allowable cost limitation plus the maximum allowable overhead cost;

3. federal upper limits plus the maximum allowable overhead cost; or

4. – 4.c. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter D. Maximum Allowable Costs**

##### **§945. Reimbursement Methodology**

A. ...

1. The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

2. Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance Program for prescription does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agency and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

3. Repealed.

B. – F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§949. Cost Limits**

A. – A.1.a. ...

b. At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

2. ...

3. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting:

3.a. – B.1. ...

2. The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advanced notice of any additions, deletions, or adjustments in price. Any provider may request and receive at no charge, one complete listing annually.

B.3. – D. ...

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

D.2. – E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Subchapter E. 340B Program**

**§963. Reimbursement**

A. – B. ...

C. Dispensing Fees. The covered entity shall be paid a dispensing fee of \$8.10 for each prescription dispensed to a Medicaid patient, unless the covered entity has implemented the carve-out option, in which case the covered entity shall be paid the state's existing maximum allowable overhead cost. With respect to contract pharmacy arrangements in which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the \$8.10 dispensing fee on behalf of the covered entity, unless the covered entity elects the Medicaid carve-out, in which case the contract pharmacy shall be paid the state's existing maximum allowable overhead cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**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 effect on family functioning, stability, or autonomy as described in R.S. 49:972.

**Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 26, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pharmacy Benefits Management Program; Restoration of the Dispensing Fee**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$1,640 (\$820 SGF and \$820 FED) will be expended in FY 09-10 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 federal revenue collections other than the federal share for promulgation. It is anticipated that \$820 will be collected in FY 09-10 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 rule, which continues the provisions of the December 21, 2009 emergency rule, proposes to repeal the January 20, 2008 provisions governing the Medicaid dispensing fee on prescription drugs and to restore the repealed provisions of the June 20, 2006 rule in the Administrative Code as a result of a Centers for Medicare and Medicaid Services (CMS) disapproval of the State Plan amendment. It is anticipated that implementation of this proposed rule will not have economic cost or benefits for FY 09-10, FY 10-11 and FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1004#053

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Transportation and Development Office of Highways/Engineering

#### Outdoor Advertising (LAC 70:III.Chapter 1)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 1 Part III of Title 70, entitled "Outdoor Advertising," in accordance with R.S. 48:461 et seq.

#### Title 70

#### TRANSPORTATION

#### Part III. Outdoor Advertising

#### Chapter 1. Outdoor Advertising

#### Subchapter C. Regulations for Control of Outdoor Advertising

#### §127. Definitions

*Centerline of Highway*—a line of equal distance from the edges of the median separating the main-traveled ways of a divided interstate highway, or the centerline of the main-traveled way of a non-divided interstate highway or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

*Controlled Areas*—within urban areas, the applicable control area distances is 660 feet measured horizontally from the edges of the right-of-way along a line perpendicular to the centerline of the Interstate and/or Federal Aid Primary Systems or National Highway System. Outside urban areas, the control area extends beyond 660 feet to include any sign within visibility of the Interstate and/or Federal Aid Primary System or National Highway System.

\*\*\*

*Destroyed Sign*—that 50 percent or more of the upright supports of a sign structure are physically damaged so that normal repair practices would require:

1. in the case of wooden sign structures, replacement of the broken supports; or
2. in case of metal sign structures, replacement of a least thirty percent of the length above ground of each broken, bent or twisted support.

\*\*\*

*Maintenance*—to allow to exist. The dimensions of the existing sign are not to be altered nor shall any additions be made to it except for a change in message content. When the damage to the upright supports of a sign is 50 percent or more (see definition of *destroyed sign*), it shall be considered new construction and shall be subject to all requirements pertaining to new construction.

*Material Composition*—means material of which something is composed. Sign support structures can only be repaired with the same or like material (wood sign structures must remain wood structures; steel sign structures must remain steel structures).

\*\*\*

*Zoned Commercial or Industrial Areas*—those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation. A zone in which limited commercial or industrial activities are

permitted as an incidental to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), LR 31:944 (April 2005), LR 33:530 (March 2007), LR 36:000 (April 2010).

#### §132. Off-Premise Changeable Message Signs

A. *Changeable Message Sign*—any outdoor advertising sign which displays a series of advertisements, regardless of technology used, including, but not limited to, the following:

1. rotating slats;
2. changing placards;
3. rotating cubes;
4. changes in light configuration or light colors;
5. LED (Light Emitting Diodes)/video displays.

#### B. Qualifying Criteria

1. – 3. ...
4. The use of such technology is limited to conforming signs only. Application of such technology to nonconforming signs is prohibited.
5. – 7. ...
8. On stacked sign structures, changeable message signs shall be allowed one per side.
9. Changeable message signs shall not exceed 672 square feet.

#### C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 25:2463 (December 1999), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 36:000 (April 2010).

#### §134. Spacing of Signs

#### A. ...

#### B. Interstate Highways

1. No two structures shall be spaced less than 1000 feet apart.
2. ...

C. Freeways on the Federal-Aid Primary System or National Highway System (Control of Access Routes)

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than 500 feet apart.
2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection, intersection at grade or safety rest area.

D. Non-Freeway Federal-Aid Primary Highways or National Highway System

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than 300 feet apart.
2. Within incorporated villages, towns and cities, no two structures shall be less than 100 feet apart.

E. The above provisions applying to the spacing between structures do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. This exception does not apply to vegetation.

F. Official and "on-premise" signs, as defined in §139, and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), amended LR 33:530 (March 2007), LR 36:000 (April 2010).

### §135. Measurements for Spacing

A. - C. ...

D. For continuous ramps which start at one entrance and end at the next exit, the allowable spacing shall be measured from the intersection of the edge of the mainline shoulder and the edge of the ramp shoulder; or in the case of bridges, the measurement would be taken where the mainline and the ramp bridge rails meet. This provision shall apply to §134.B.1 and 2 and C.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), LR 33:530 (March 2007), LR 36:000 (April 2010).

### §136. Erection and Maintenance of Outdoor Advertising in Unzoned Commercial and Industrial Areas

A. Definitions

*Unzoned*—Repealed.

*Unzoned Commercial or Industrial Areas*—those areas which are not zoned by state or local law, regulation, ordinance and on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted, and where the area along the highway extends outward 800 feet from and beyond the edge of the activity.

B. Qualifying Criteria

1. Primary Use Test

a. - b. ...

c. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an unzoned or commercial area. Activities incidental to the primary use of the area, such as a kennel or a repair shop in a building or on land which is used primarily as a residence, school, church or assisted/extended living facilities do not constitute commercial or industrial activities for the purpose of determining the primary use of an unzoned area even though income is derived from the activity.

d. ...

e. The actual land use at the sign site cannot be agricultural or farming.

2. - 2.c. ...

3. Structures and Grounds Requirements

a. - f. ...

g. Limits. Limits of business activity shall be in accordance with the definition of *unzoned commercial or industrial areas* as stated in §136.A.

h. Activity Requirements. In order to be considered a commercial or industrial activity for the purpose of

outdoor advertising regulation, the following conditions shall be taken into consideration by the department. The department shall make a determination based upon a totality of the circumstances.

i. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a minimum of five days each week. However, some businesses may not require staffing, such as a laundry mat, car wash, etc. The department has the discretion to determine whether the business requires staff to operate the business.

ii. ...

iii. A sufficient inventory or products is maintained for immediate sale or delivery to the consumer. If the product is a service, it ~~is~~ must be available for purchase on the premises.

iv. ...

C. Where a mobile home, manufactured buildings, or a recreational vehicle is used as a business or office, the following conditions and requirements also apply.

1. - 4. ...

D. Non-Qualifying Activities

1. - 4. ...

5. activities conducted in a building principally used as a residence, school, church or assisted/extending living facility;

6. - 10. ...

11. Repealed.

12. public park lands or playgrounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 25:880 (May 1999), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 36:000 (April 2010).

### §137. Nonconforming Signs

A. In addition to all other laws, regulations and rules, the following conditions and requirements apply to continue and maintain a nonconforming sign.

1. ...

2. Reasonable repair and maintenance of the sign includes a change of advertising message, repainting of the structure, sign face, or trim, and replacing electrical components after failure. Reasonable maintenance also includes replacement of stringers, platforms and worker supports. The type of sign face may not be changed, except that a wood or steel face may be wrapped with a vinyl wrap containing the message or the face may be replaced with a panel free frame for hurricane protection. Lighting cannot be added to the sign structure or placed on the ground with the intention of illuminating a previously unilluminated nonconforming sign. Replacement of 50 percent or more of the upright supports is prohibited (see definitions of *destroyed sign* in §127).

3. Repealed.

4. A substantial change in the subject sign which will terminate the status of legal but nonconforming usage occurs when:

a. there has been an addition of 25 percent or more of the square footage of the sign (excluding trim);

b. there has been any change in the material composition of the sign super-structure or sign facing, other than reasonable maintenance as defined in Section 137.2. (Wooden poles must be replaced by wooden poles. I-beams, pipe or other metal poles must be replaced or repaired with the same materials.)

5. When and if nonconforming use rights in and to a sign structure are acquired by the Louisiana Department of Transportation and Development through the exercise of eminent domain, just compensation will be based upon the original size and material of the sign when it became a nonconforming structure and not upon any enlarged size, improvement or betterment to the sign.

6. ...

7. Destruction. Nonconforming signs are considered destroyed when 50 percent or more of the upright supports of a sign structure are physically damaged such that normal repair practices would call for:

a. in the case of wooden sign structures, replacement of the broken supports; or

b. in case of metal sign structures, replacement of at least thirty percent of the length above ground of each broken, bent or twisted support; or

c. any signs so damaged by intentional, criminal conduct may be re-erected within 180 days from the date of destruction to retain nonconforming status; however such re-erection must occur at the identical location and the size, lighting and spacing must be identical to the prior circumstances;

d. nonconforming signs cannot be repaired unless the requirements of this section are met. Prior to repair, authorized district personnel must review the damages and approve the repairs. If the sign is repaired prior to approval by the department's authorized personnel, the sign shall become illegal and the permit shall be revoked. The request to repair must be made to the Outdoor Advertising Program manager by certified mail. The department shall respond to the request within 14 business days of receipt of the certified letter. The department's failure to respond within 14 business days of receiving the repair request will allow the owner to repair the sign without the department's approval.

8. Abandonment

a. ...

b. The said 12 month period may be interrupted for the period of time during which the controlled highway relative to such sign is closed for repairs adjacent to said sign or the sign owner is able to demonstrate that the sign has been the subject of an administrative or legal proceeding preventing the owner from displaying copy.

c. - c.iii. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2855 (December 2003), LR 36:000 (April 2010).

### **§139. Determination of On-Premise Exemptions**

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

2. Activity Requirements

a. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a

minimum of five days a week. However, some businesses may not require staffing, such as a laundry mat, carwash, etc. The department has the discretion to determine if staffing is required in order to operate the business.

b. ...

c. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it must be available for purchase on the premises.

B.3. - C.1.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 33:531 (March 2007), LR 36:000 (April 2010).

### **§142. Procedure and Policy for Issuing Permits for Controlled Outdoor Advertising** **[Previously §143]**

A. Applications shall be made by the person who is the contemplated owner of the subject sign to be permitted.

B. Applicants for a permit shall execute an application form furnished by the Louisiana Department of Transportation and Development and shall forward such application form properly and completely executed as to all information requested to the district office of the Louisiana Department of Transportation and Development situated within the highway district where said sign is to be located.

C. All permits for the erection of outdoor advertising shall be conditioned upon compliance with state law, and any action by or on behalf of the permit holder or sign owner contrary to state law and regulations shall be grounds for voiding any subject permit heretofore or hereafter issued.

D. The department shall void the permit for the sign wherein the violation took place and the department shall not issue future permits within the district where the violation occurred to the permit holder and/or sign owner and/or landowner until the illegal sign is removed.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permitted installation. Such notification may be done by submittal of the sales agreement.

F. An original signature of the landowner or a copy of the current lease agreement shall be submitted with each application.

G. Every applicant who seeks to situate a controlled advertising structure in a commercial or an industrial zone shall furnish evidence of the restrictive zoning of the subject land on the department's zoning supplement form which shall be completed by the appropriate state or local authority.

H. Permit applications which are properly completed and executed and which are accompanied by all other required documentation shall be thereafter submitted by the district office to the appropriate permit office in Baton Rouge, Louisiana, for review. Permit applications which are not in proper form or which are not complete or not accompanied by required documentation or do not meet the requirements of state law at the time of the submittal of the application shall be returned to the applicant by the district office with reasons for its return. Applications may be resubmitted at any time.



I. The appropriate permit-issuing officer designated by the department shall review all permit applications. Thereafter, permits shall be issued or the application rejected and returned to the applicant with reasons for denial of the permit.

J. Copies of all permits shall be transmitted to the district office of the district where the sign is to be situated for subsequent surveillance by the district office.

K. Each permit shall specify a time delay of 12 months within which to erect the subject advertising device. The district office shall determine whether or not the device has been erected within the specified time delay.

L. If a sign has not been erected within the delay provided by the subject permit, the permit may be voided by the department, and the applicant or permittee so notified. On the day following the posting of notice to any such applicant or permittee of the voiding of the permit to the last known address as furnished by the applicant, the subject sign location shall be available to any other applicant.

M. If a sign has been erected within the delays allowed by the permit, but the subject sign does not conform to the specifications of the permit, the Louisiana Department of Transportation and Development shall notify the applicant or permittee in writing to cause the sign to conform to the permit. The applicant or permittee shall have 30 days to cause the sign to conform to the permit. The time delay begins on the day following the posting of written notice to said applicant or permittee at the last known address as furnished by the applicant or permittee. Extensions of time within which the applicant or permittee may bring the sign into legal conformity may be granted by the department when the department determines that good cause has been demonstrated. The department will void any permit when the permittee fails to conform the sign within the time delay or extensions provided. Thereafter the sign must be removed at the sign owner's expense. The sign owner may prevent such removal only by securing a new permit for the subject sign, which did not conform to the previous permit. A new permit may be obtained upon appropriate application including payment of all fees in connection therewith. Nevertheless, once a permit has been voided the sign location is available to any applicant.

N. If a sign is erected without first obtaining a permit from the department and the department notifies the owner that the sign is illegal, the owner of the sign will have a period of 30 days from the date of receipt of the department's letter to bring the sign into legal compliance and make proper application for the permit. Extensions of time within which the applicant or permittee may bring the sign into conformity may be granted by the department when the department determines that good cause has been demonstrated.

O. When a permitted outdoor advertising sign or device is knocked down or destroyed, or modified, the sign or device cannot be reinstalled or rebuilt without first obtaining a new outdoor advertising permit pursuant to the procedures established in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191 (June 1976), amended by the Department of Transportation and

Development, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 31:945 (April 2005), LR 33:532 (March 2007), LR 36:000 (April 2010).

#### **§143. Issuance of Outdoor Advertising Permits for Grandfathered Nonconforming Signs**

A. Applications shall be made by the person who is the owner of the sign which is the subject of the permit.

B. Applicants for a permit shall execute an application form furnished by the department and shall forward the properly and completely executed application form to the appropriate district office of the department. The "appropriate district office" shall be the district office where the sign to be permitted is located.

C. The appropriate permit issuing officer designated by the department shall review all permit applications. Thereafter, permits shall be issued and a copy of the permit shall be sent to the applicant.

D. Copies of all permits shall be transmitted to the district where the sign is located for subsequent surveillance by the district office.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permit. Such notification shall be by submittal of the sales agreement.

F. An original signature of the landowner or a copy of the current lease agreement shall be submitted with each permit.

G. A grandfathered sign cannot be modified or repaired unless the requirements of Section 137 are met. Prior to repair or modification, district personnel must review the damages and approve the repairs. If the sign is repaired prior to approval by the department's authorized personnel, the sign shall become illegal and the permit shall be revoked. The department shall respond within two weeks of receiving documentation of repairs to be made by the sign owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 36:000 (April 2010).

#### **§144. Penalties for Illegal Outdoor Advertising Signs**

A. An outdoor advertising sign is deemed to be illegal for the purpose of issuing penalties if:

1. the owner has received a certified letter from the department under the provisions of R.S. 48:461.7 and has failed to respond within the time allotted; or

2. the owner has received a certified letter from the department provided for in R.S. 48:461.7; received a permit review as provided for hereafter, with a ruling of illegality by the permit review committee; and failed to appeal to a court of competent jurisdiction;

3. the owner replied to the certified letter provided for in R.S. 48:461.7; received a permit review as provided for hereafter; received a ruling of illegality by the permit review committee; appealed said ruling to a court of competent jurisdiction; and a final ruling of illegality was rendered by the court.

B. – D.1.c. ...

d. Traffic Engineering or their designated representative.

2 - 5. ...

6. Permittee's failure to submit an appeal in a timely manner shall constitute a waiver of the permit review process.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 24:960 (May 1998), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 36:000 (April 2010).

#### **§145. Directional Signs**

A. Directional signs are those containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or areas naturally suited for outdoor recreation.

##### **B. Standards for Directional Signs**

1. The following criteria apply only to directional signs.

a. General. The following signs are prohibited:

i. signs advertising activities which are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those advertised activities;

ii. signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic;

iii. signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features;

iv. obsolete signs;

v. signs which are structurally unsafe or in disrepair;

vi. signs which move or have any animated or moving parts;

vii. signs located in rest areas, on park land or in scenic areas.

b. Size. No sign shall exceed the following limits:

i. maximum area—150 square feet;

ii. maximum height—20 feet;

iii. maximum length—20 feet;

iv. all dimensions include border and trim, but exclude supports.

c. Lighting. Signs may be illuminated, subject to the following provisions.

i. Signs which contain, include or are illuminated by any flashing, intermittent or moving light or lights are prohibited.

ii. Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

iii. No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

d. Spacing

i. Each location of a directional sign must be approved by the department.

ii. The message on the directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers or exit numbers.

iii. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.

e. Selection Method and Criteria

i. Privately owned activities or attractions eligible for directional signing are limited to the following:

(a). natural phenomena;

(b). scenic attractions;

(c). historic, educational, cultural, scientific and religious sites; and

(d). outdoor recreational area.

ii. Privately owned attractions or activities must be nationally or regionally known and of outstanding interest to the traveling public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:192 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 36:000 (April 2010).

#### **Subchapter D. Outdoor Advertising Fee Schedule**

##### **§149. Permit Fee**

A. The following permit fee schedule is applicable to new and replacement outdoor advertising signs beginning on the effective date of this rule change in 2010.

a. 1–100 square feet: \$75.00 (per sign face) for a 12 month period until installation. Annual renewal fee after erection is \$7.50 (per sign face).

b. 100–301 square feet: \$125.00 (per sign face) for a 12 month period until installation. Annual renewal fee after erection is 12.50 (per sign face).

c. 301 square feet and up: \$250.00 (per sign face) for a 12 month period until installation. Annual renewal fee after erection is \$25.00 (per sign face).

B. Late Fees for Annual Renewals

1. Annual renewal fees not paid by July 1 of each year shall subject the permittee to a late fee of \$10.00 for each permit.

2. A permit shall expire and the sign structure will become illegal if the annual renewal fees and late fees are not paid by July 31 of each year. This applies to all permits, including but not limited to legal, nonconforming and grandfathered signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:602 (September 1986), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2857 (December 2003), LR 36:000 (April 2010).

##### **Family Impact Statement**

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

#### Public Comments

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Susan G. Stafford, Attorney, P.O. Box 94245, Baton Rouge, LA 70804, telephone (225) 237-1357.

Sherrri LeBas  
Interim Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Outdoor Advertising

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs associated with this proposed rule. Implementation of the proposed rule will place the department in compliance with federal law (23 CFR 750.707(d)(6)(i) and make the existing rules more clear and workable for the department and the outdoor advertising industry.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule implementing late fees is anticipated to increase state revenue up to \$4,000 in FY 10, up to \$3,000 in FY 11 and up to \$2,000 in FY 12. The proposed rules provide for late fees for annual renewals of \$10.00 per structure (4,301 structures). The department is anticipating collecting approximately \$3,000 to \$4,000 in late fees by issuing 300 to 400 late fee notices in FY 11. The department is anticipating that the late fee revenue generation will likely decrease as outdoor advertising companies begin to pay permit fees in a timely manner. Thus, the out year late fee revenue generation projection is approximately \$2,000 to \$3,000 in FY 11 and \$1,000 to \$2,000 in FY 12. To the extent that the department collects late fees, these revenues will be classified as fees and self-generated revenues within the Operations Program, which is within the department's Engineering and Operations agency (07-276).

The proposed rules modifying the outdoor advertising fee schedule are revenue neutral. The fee modification is as follows: 1-100 square feet—the fee is changing from \$37.50/face for 6 months to \$75.00/face for 12 months; 100-300 square feet—the fee is changing from \$62.50/face for 6 months to \$125.00/face for 12 months; 301 square feet and up—the fee is changing from \$125.00/face for 6 months to

\$250.00/face for 12 months. Essentially, there will no longer be a six-month permit. The fee schedule modifications are doubling the time frame of the permits, which should result in a neutral impact upon departmental revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The outdoor advertising industry is most directly affected by this rule change. The proposed rules more clearly detail actions that could cause permit revocation by the department or the need for remediation by the permittee. The proposed rule changes add late fees which will be borne by the outdoor advertising industry if timely payment requirements are not met. Not including the proposed late fees, the fee schedule modifications should be revenue neutral.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment. The proposed rule applies equally to all facets of the outdoor advertising industry.

Sherrri LeBas  
Interim Secretary  
1004#033

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Reef Fish Harvest Regulations (LAC 67:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend LAC 76:VII.335, modifying commercial harvest rules for groupers and tilefishes and recreational bag limits for gag, red grouper and groupers in general, which are part of the existing rule for daily take, possession, and size limits for reef fishes set by the Commission. Authority of adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2; 56:326.1 and 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §335. Reef Fish—Harvest Regulations

#### A. - C.3. ...

#### D. Commercial Harvest

1. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper, deepwater or shallow-water grouper or any tilefish species, which may not be bartered or sold. No person aboard any vessel shall commercially possess, sell, barter, trade, exchange or attempt to sell, barter, trade or exchange red snapper, or any species of grouper or any tilefish species unless possessing a federal permit for the harvest of Gulf of Mexico Reef Fish and the applicable federal Individual Fishing Quota (IFQ) vessel account.

2. Requirement for federal IFQ vessel account and allocation: In addition to the federal commercial vessel permit for Gulf reef fish, in order to fish for, possess, or land Gulf red snapper, any species of grouper or any tilefish

species, regardless of where harvested or possessed, the appropriate federal IFQ vessel account must have been issued to the vessel. No person shall commercially harvest or land red snapper, groupers or any tilefish species without holding or being assigned the appropriate federal IFQ allocation at least equal to the pounds of red snapper, groupers and tilefishes landed/docked at a shore side location or off loaded. On the last fishing trip of the year a vessel may exceed by 10 percent the remaining IFQ allocation.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper, grouper or tilefish species in excess of any possession limit for which federal commercial license, permit, appropriate allocation, and account were issued.

4. Requirement for federal IFQ dealer endorsement: In addition to the requirement for a federal dealer permit for Gulf reef fish, for a dealer to receive Gulf red snapper or any species of grouper or any tilefish species from a commercial fishing vessel he must have a federal Gulf IFQ dealer endorsement. For a person aboard a vessel with a federal IFQ vessel account to sell red snapper or any species of grouper or tilefish to anyone other than a permitted dealer, such person must also have a federal Gulf IFQ dealer endorsement.

5. Requirement for NMFS transaction approval code: The owner or operator of a vessel landing red snapper, groupers or tilefish species is responsible for calling National Marine Fisheries Service (NMFS) Office of Law Enforcement at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper, groupers or tilefish species are to be received, and the estimated gutted weight of red snapper, grouper and tilefish for each federal IFQ share category (red snapper, gag, red grouper, deep-water grouper, other shallow-water grouper, and tilefish species. For the purpose of these regulations, the term "landing" means tying a vessel to a dock. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper, groupers or tilefish species from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper, groupers or tilefish species are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper, groupers or tilefish species in possession.

6. Offloading and transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper, groupers or tilefish species during the hours from 6:00 p.m. until 6:00 a.m., local time. No person shall offload red snapper, grouper or tilefish at a location which is not an offloading site approved by NOAA Fisheries and accessible to the public. For the purpose of these regulations, the term "offloading" means removing red snapper, groupers or tilefish species from a vessel. At-sea or dockside transfer of commercial red snapper, groupers or tilefish species from one vessel to another vessel is prohibited.

7. VMS requirement: No person shall commercially harvest red snapper, groupers or tilefish species from a

vessel unless that vessel is equipped with a fully operational and federally approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by National Oceanographic and Atmospheric Administration (NOAA) Fisheries and operating under the requirements mandated by NOAA Fisheries.

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red grouper	20 inches total length (Recreational) 18 inches total length (Commercial)
7. Yellowfin grouper	20 inches total length
8. Gag and black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
9. Scamp	16 inches total length
10. Greater amberjack	30 inches fork length (Recreational) 36 inches fork length (Commercial)
11. Black seabass	8 inches total length
12. Hogfish	12 inches fork length
13. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
14. Gray triggerfish	14 inches fork length

F. Definitions. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows:

*Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

*Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain

appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. Greater Amberjack	March 1 through May 31

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag, Black and Red Grouper	February 15 through March 14
b. Red Snapper	October 1 of each year through May 31 of the following year

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

H. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper, groupers and tilefish species on purchases and sales on their records.

I.1. Devices

a. Circle hook means a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval, shape.

b. Dehooking device means a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

c. Venting device means a device intended to deflate the swim bladder of a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-stainless steel circle hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

c. Venting tool. At least one venting tool is required and must be used to deflate the swim bladders of Gulf reef fish to release the fish with minimum damage. This tool

must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36: .

The Secretary of the Department of Wildlife 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 Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Family Impact Statement**

In accordance with Act #1183 of 1999, 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).

**Public Comments**

Interested persons may submit written comments on the proposed Rule to Mr. Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 or by e-mail to hblanchet@wlf.louisiana.gov, with "Proposed Reef Fish Rule" in the subject line, no later than 4:30 p.m., June 3, 2010.

Stephen J. Oats  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Reef Fish Harvest Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule amendment will be carried out using existing staff.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is anticipated to have no effect on revenue collections of state and local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule reduces the commercial minimum size limit for red grouper from 20 inches to 18 inches total length, eliminates the 6,000 pound commercial trip limit for groupers and eliminates the commercial closed season for gag, black grouper and red grouper. It also amends the language and requirements for federal Individual Fishing Quotas (IFQ) for red snapper, groupers, and tilefishes and modifies the commercial record-keeping requirements to be consistent with federal regulations presently in effect in waters beyond the State Territorial Sea.

Commercial reef fish harvesters who possess a federal IFQ vessel account and dealers with a federal reef fish permit will

be directly impacted by the proposed rule changes. The reduction in the red grouper commercial harvest size limit and the elimination of the commercial trip limit for groupers is anticipated to lower average harvest cost per pound in the commercial harvesting sector by increasing economies of scale and harvest per unit of effort. The elimination of the season closure for gag, black grouper and red grouper will allow for a longer harvest season and opportunities for individual commercial harvesters to utilize harvesting strategies that could result in higher average dockside prices.

Dealers with a federal reef fish permit will benefit from being able to purchase gag, black groupers and red groupers year round without any trip limit restrictions.

The overall impact on the fishing industry is anticipated to be slight, since these regulations have already been enacted in federal waters where these species are most often harvested. Additional long term benefits to directly affected persons or non-governmental groups will be derived by ensuring healthy fish stocks and a continuing supply of reef fish species.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes are anticipated to have little or no change on competition and employment in the public or private sectors.

Wynette Kees  
Undersecretary  
1003#009

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Administrative Code Update

CUMULATIVE: JANUARY-MARCH 2010

LAC Title	Part.Section	Effect	Location LR 36 Month Page	LAC Title	Part.Section	Effect	Location LR 36 Month Page				
7	III.101,103	Amended	Mar. 464	46	LXX.Chapters 66-67	Repealed	Mar. 493				
	III.301-315	Adopted	Mar. 464		LXXXV.403,409,413,811,1227	Amended	Feb. 319				
	III.301-337	Repealed	Feb. 231		XCI.105	Amended	Feb. 321				
10	XII.301	Repealed	Feb. 316		XCI.301,311	Amended	Feb. 322				
					XCI.901	Adopted	Feb. 321				
13	I.2701,2703,2705,2709	Amended	Feb. 307	48	I.9303	Amended	Mar. 513				
	I.2711,2713,2715	Amended	Feb. 307		I.Chapter 96	Adopted	Mar. 513				
	I.2707,2717	Adopted	Feb. 307		I.9729	Amended	Feb. 325				
	I.Chapter 35	Adopted	Mar. 474		I.12501,12503,12505,12525	Amended	Feb. 322				
	III.1709	Amended	Jan. 51		I.Chapter 129	Adopted	Mar. 521				
19	II.105,107,507,903	Amended	Jan. 51	50	V.1101,1303,1305,1307	Amended	Jan. 68				
	IX.Chapters 1 and 3	Adopted	Mar. 471		V.1309,1311,1313,1315	Adopted	Jan. 68				
	IX.Chapters 11 and 13	Adopted	Mar. 507		V.301	Adopted	Jan. 66				
22	I.103	Amended	Mar. 525		V.954	Adopted	Mar. 519				
	I.107	Amended	Mar. 528		V.2501	Amended	Jan. 65				
	I.109	Amended	Mar. 534		V.2501	Amended	Mar. 512				
	I.319	Adopted	Mar. 533		V.6105	Adopted	Jan. 67				
	I.331	Amended	Mar. 531		VII.1305,1309	Amended	Feb. 325				
	I.2327	Repealed	Mar. 525		VII.1305,1309	Amended	Mar. 520				
						IX.501	Adopted	Jan. 68			
25	I.1103-1119	Amended	Mar. 469		XIII.8501,8503	Adopted	Mar. 512				
	V.501,503,505,507	Adopted	Jan. 50		XVII.301	Amended	Mar. 520				
					XVII.501	Repromulgated	Mar. 521				
28	I.713	Amended	Feb. 59	51	XXI.11303,12101	Amended	Feb. 324				
	IV.301,507,703	Amended	Feb. 311		XXI.13704	Adopted	Jan. 65				
	IV.301,703,705,803	Amended	Mar. 490		52	XII.317	Adopted	Jan. 68			
	VI.301	Amended	Feb. 313								
	VI.305,311,315	Amended	Mar. 492		55	I.Chapter 15	Amended	Mar. 550			
	XXXI.503,507	Amended	Mar. 489						I.1947	Amended	Mar. 546
	CXI.107,1803,1813,1817	Amended	Mar. 477						I.Chapter 31	Adopted	Mar. 536
	CXV.1103,1105	Amended	Mar. 481		61	VI.505,701,703,705,707,901	Repromulgated	Feb. 326			
	CXV.1129	Amended	Mar. 480						VI.903,905	Repromulgated	Feb. 326
	CXV.1147	Adopted	Mar. 482						67	III.2301,2509,2801	Amended
	CXV.2304	Amended	Mar. 483		III.Chapter 51	Amended	Mar. 555				
	CXV.2321	Repromulgated	Jan. 59		III.5121,7302,7303,7305,7355	Amended	Feb. 332				
	CXVII.303	Repromulgated	Feb. 310		III.7357,7359,7361	Amended	Feb. 332				
	CXXXI.241,243	Amended	Mar. 484		V.3501	Amended	Jan. 73				
	CXXXI.241,243,409	Amended	Mar. 487		V.Chapter 41	Adopted	Mar. 552				
	CXXXI.311	Amended	Mar. 486		V.6115,6709,6903,6905,6909	Amended	Feb. 329				
	CXXXI.645	Amended	Mar. 485		V.6953,6955,6959	Amended	Feb. 329				
	CXXXI.801,803	Amended	Mar. 486		76	V.127	Amended	Jan. 74			
	CXXXIX.1503	Adopted	Mar. 478						VII.329	Amended	Jan. 77
	33	III.2201,2202	Amended		Jan. 59		VII.367	Amended	Jan. 77		
V.10105,10117,10121		Amended	Mar. 545								
XI.601,603,605,607,609,611		Adopted	Feb. 313								
41	III.101	Adopted	Feb. 316								
43	VI.103,307	Amended	Feb. 326								
46	XXXIII.116	Amended	Jan. 63								
	XXXIII.1713	Adopted	Jan. 63								
	XLVII.3707	Adopted	Jan. 64								
	LIX.409	Amended	Jan. 72								
	LXX.Chapters 61-65	Amended	Mar. 493								

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Annual Quarantine Listing for 2010

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweet Potato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweet potato weevil.

(b) In the state of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, and West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

#### Arizona

(1) Generally infested area: the entire state.

#### California

(1) Generally infested area: the entire counties of Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: the entire counties of Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

#### New Mexico

(1) Generally infested area: the entire state.

#### Texas

(1) Generally infested area: the entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The states of Texas and Florida.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

#### Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

#### Illinois

Entire state.

#### Indiana

Entire state.

#### Iowa

Entire state.

#### Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

#### Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

#### Maryland

Infected counties: Allegany, Frederick, Garrett, and Washington.

#### Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

#### Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

#### Missouri

Entire state.

#### Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.



**North Carolina**

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

**Ohio**

Entire state.

**Oklahoma**

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

**Pennsylvania**

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

**South Carolina**

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

**Tennessee**

Infected counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

**Texas**

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, and Williamson.

**Virginia**

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

**West Virginia**

Infected counties: all counties except Tucker and Webster.

**Wisconsin**

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

**Alabama**

Entire state.

**Arkansas**

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

**Florida**

Entire state.

**Georgia**

Entire state.

**Kentucky**

County of McCracken.

**Louisiana**

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

**Mississippi**

Entire state.

**Missouri**

County of Dunklin.

**North Carolina**

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

**South Carolina**

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

**Tennessee**

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

**Texas**

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker [*Xanthomonas axonopodis* pv. *citri*]

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

13.0 Citrus Greening [*Candidatus Liberibacter asiaticus*]

**Louisiana**

Infested parishes: Orleans and Washington.

Any other areas or states designated as infested under the Federal Domestic Quarantine Order: Citrus Greening Disease (CG) and Asian Citrus Psyllid (ACP).

14.0 Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]

**Louisiana**

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Charles, St. James, St. Tammany and Terrebonne.

Any other areas or states designated as infested under the Federal Domestic Quarantine Order: Citrus Greening Disease (CG) and Asian Citrus Psyllid (ACP).

Mike Strain DVM  
Commissioner

1004#001

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

The 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.

**POTPOURRI**

**Department of Public Safety and Corrections  
Oil Spill Coordinator Office**

**Mosquito Bay Natural Gas Condensate Discharge  
Draft Settlement Agreement**

Operator	Field	District	Well Name	Well Number	Serial Number
North Central Oil Corporation	Wildcat-SO LA Lafayette Offshore	L	Alsa Hebert	001	74262(29)
WM. T. Burton Industries, Inc.	Bayou Des Allemands	L	Simoneaux	014	69940
Vacuum Oil Company	Wildcat-SO LA Lafayette Dist.	L	Bordages	001	7999
Traver Oil Company	West Lake Ponchartrain BLK 41	L	SL 2918	005	154687(30)
Energy Reserves Group	Wildcat-SO LA New Orleans Dist.	L	SL 7533	002	159061(29)
Orleans Oil and Gas Corporation	Lirette	L	Earl Peters	001	990465
Penman Oil and Gas	Leleux	L	Lewis A Breaux et ux	002	179382

James H. Welsh  
Commissioner

1004#012

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fisherman's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is hereby given that 11 claims in the amount of \$46,586.01 were received for payment during the period of March 1, 2010 to March 31, 2010.

There were 11 claims paid and 0 claims denied.

Latitude/longitude coordinates of reported underwater obstructions are:

2901.952	9024.826	Lafourche
2907.532	9059.678	Terrebonne
2912.168	9001.202	Jefferson
2921.376	8946.750	Plaquemines
2923.639	9001.359	Jefferson
2929.066	9152.203	Iberia
2931.113	9159.450	Iberia
2938.452	8945.464	Plaquemines
2949.891	8932.044	St. Bernard
2952.493	8940.078	St. Bernard
3005.195	9006.947	Jefferson

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or call (225) 342-0122.

Scott A. Angelle  
Secretary

1004#059

**Action:**

Notice of availability of a Draft Settlement Agreement (Draft SA) with a 30-day public review and comment period on the Draft SA document and the Draft Addendum to the Final Damage Assessment and Restoration Plan (Draft Addendum) for LOSCO NRDA case file #LA2001\_0405\_1002 [Mosquito Bay 2001].

**Agencies:**

Louisiana Oil Spill Coordinator's Office; Department of Public Safety and Corrections; Louisiana Department of Environmental Quality; Louisiana Department of Natural Resources; and Louisiana Department of Wildlife and Fisheries

**Authorities:**

The Oil Pollution Act of 1990 (OPA) (33 USC 2701 *et seq.*) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. R.S. 30:2451 *et seq.*) are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. In accordance with OPA and OSPRA, the agencies listed above (referred to herein as the "Trustees") have conducted a Natural Resource Damage Assessment (NRDA) for the April 5, 2001 unauthorized discharge of natural gas condensate into Mosquito Bay on Point Au Fer Island, Terrebonne Parish, Louisiana, in which Transcontinental Gas Pipe Line Corporation (Transco) was identified by the Trustees as the Responsible Party.

**Summary:**

Pursuant to LAC 43:XXIX.Chapter 1, notice is hereby given that a document entitled, "Draft Settlement Agreement Mosquito Bay 2001" will become available for public review and comment on April 20, 2010. The Draft SA was negotiated by the Trustees and Transco to recover damages for injuries to natural resources and services resulting from the incident. The Settlement Agreement is a binding agreement in which Transco agrees to pay the Trustees for their response costs, past assessment costs, future trustee costs, and future restoration project implementation costs associated with a Trustee-implemented compensatory restoration project, as described in the Draft Addendum (Attachment 1 of the Draft SA). The Draft SA document and Draft Addendum are available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the documents for public review. The Trustees invite the public to review these documents and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the Draft SA document and Draft Addendum before finalizing the Settlement Agreement. Execution of the Final Settlement Agreement by the Trustees

and Transco shall provide the basis for compensating the public for injuries to natural resources and services resulting from the incident. Public review of the Draft SA and Draft Addendum is consistent with all State laws and regulations that apply to the NRDA process, including Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2451 et seq., and the regulations for NRDA under OSPRA, LAC 43:XXIX.Chapter 1.

Interested members of the public are invited to view the Draft SA document and Draft Addendum via the internet at <http://www.losco.state.la.us> (look under News Flash for Mosquito Bay 2001 Oil Spill) or by requesting a copy of the documents from Gina Muhs Saizan at the address provided below:

Gina Muhs Saizan  
Louisiana Oil Spill Coordinator's Office  
Department of Public Safety and Corrections  
P.O. Box 66614  
Baton Rouge, LA 70896  
(225) 925-6606  
[Gina.Saizan@la.gov](mailto:Gina.Saizan@la.gov)

**Comment Submittals:**

Comments must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

**For Further Information:**

Contact Gina Muhs Saizan at (225) 925-6606 or by email at [gina.saizan@la.gov](mailto:gina.saizan@la.gov).

**Supplementary Information:**

On November 20, 2002, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 28, No. 11, pp. 2452-2453) to conduct restoration planning for the incident in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the incident. On July 20, 2005, the Trustees published a Notice of Availability of a Draft DARP in the *Louisiana Register* (Vol. 31, No. 07, pp. 1919-1920) that presented the Trustees' assessment of injuries to natural resources and services attributable to the incident and their plan to restore, replace, or acquire natural resources or services equivalent to those lost, as a basis for compensating the public for the injuries resulting from the incident. The public was given an opportunity to review and comment on the Draft DARP during the public comment period, which extended from July 20, 2005 through August 20, 2005. The Trustees did not receive any comments on the Draft DARP and published a Notice of Availability of a Final DARP in the *Louisiana Register* (Vol. 31, No. 10, p. 2657) on October 20, 2005, which selected the "Canal Filling Southwest of Mosquito Island Marsh Creation" project for implementation by Transco. In January 2010, prior to the implementation of the Canal Filling Southwest of Mosquito Island marsh creation project, Transco decided to settle their NRDA liability for cash, in lieu of implementing the project. As a result, the Trustees compiled the Draft Addendum to: 1) identify a revised preferred restoration alternative, which will be implemented by the Trustees, as a basis for the cash

settlement; 2) provide an analysis using the HEA method for scaling the preferred restoration alternative to the injured resources; and 3) identify the methodology used for estimating the costs of implementing the preferred restoration alternative.

Roland Guidry  
Oil Spill Coordinator

1004#017

**POTPOURRI**

**Department of Social Services  
Office of Community Services**

Louisiana's Child and Family Services Plan  
and Annual Progress and Services Report

The Department of Social Services (DSS), Office of Community Services (OCS) announces opportunities for public review of the state's 2010 Annual Progress and Services Report (APSR). The APSR is a report on year one of the 2010-2014 Child and Family Services Plan (CFSP) with regard to the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), and Child Abuse Prevention and Treatment Act (CAPTA) funds. The APSR is the report on the achievement of goals and objectives and/or outcomes, and amends any changes to the agency's CFSP.

Louisiana, through the DSS/OCS, provides services that include child abuse prevention, child protection investigations, family services, foster care, adoption and the youth transition services. The OCS will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age to 21 years of age, who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment initiatives. The CAPTA funding is used to complement and support the overall mission of the OCS with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

The DSS/OCS is encouraging public participation in the planning of services and the writing of the document. The report can be found for review on the internet under [www.dss.state.la.us](http://www.dss.state.la.us) by scanning down the left side to

choose: OCS, then Plans and Reports, then the APSR Yearly link. Inquiries and comments on the plan may be submitted in writing to the OCS Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 25, 2010 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 25, 2010 at 10 a.m. in Room 1-127 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Kristy H. Nichols  
Secretary

1004#026

**CUMULATIVE INDEX**  
**(Volume 36, Number 4)**

2010	
Pages	Issue
1-157.....	January
158-439.....	February
440-713.....	March
714-911.....	April

  

EO—Executive Order
PPM—Policy and Procedure Memoranda
ER—Emergency Rule
R—Rule
N—Notice of Intent
CR—Committee Report
GR—Governor's Report
L—Legislation
P—Potpourri

**ADMINISTRATIVE CODE UPDATE**

**Cumulative**

January 2009—December 2009, 146

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**

Seed certification standards and fees, 336N

**Agricultural Finance Authority**

Farm and Agribusiness Recovery and Loan Program, 442ER, 464R

**Commissioner, Office of the**

Sweet potato yield adjustment, 445ER

Family farm credit, 231R

Fees: amount, time of payment, 446ER

**Horticulture Commission**

Landscape architect registration exam, 150P, 425P

Retail floristry examination, 425P

**Seed Commission**

Seed certification standards and fees, 336N

**CIVIL SERVICE**

**Civil Service Commission**

Food and drink limit, 855N

Performance adjustment, 343N

Temporary suspension of merit increase authority, 716ER, 855N

**Ethics, Board of**

Financial disclosure forms, 232R

Financial disclosures, 340N

Food and drink limit, 304R

**CULTURE, RECREATION AND TOURISM**

**Tourism, Office of**

Cultural districts, 469R

State parks, 558N

Welcome centers, 50R

**ECONOMIC DEVELOPMENT**

**Business Development, Office of**

CDC Certification Program, 79N, 750R

Entertainment tax industry credit programs—digital media act, 425P

Motion picture investor tax credit program, 52R

Regional awards and matching grant awards programs, 51R

Retention and modernization act, 474R

Small and emerging business development program, 51R

Sound recording production and infrastructure tax credit programs, 304R

**Business Development Services, Office of**

Retention and modernization act, 474R

Technology commercialization credit and jobs program, 307R

**Entertainment Industry Development, Office of**

Motion picture investor tax credit program, 52R

Sound recording production and infrastructure tax credit programs, 304R

**Louisiana Economic Development Corporation**

Retention and modernization act, 474R

**Secretary, Office of**

Regional awards and matching grant awards programs, 51R

Retention and modernization act, 474R

Veteran initiative, 471R

**EDUCATION**

**Elementary and Secondary Education, Board of**

Bulletin 111—The Louisiana School, District, and State Accountability System, 856N

Bulletin 118—Statewide Assessment Standards and Practices, 81N, 477R

Bulletin 119—Louisiana School Transportation Specifications and Procedures, 567N

Bulletin 120—Adult Education Data Quality and Procedures, 310R

Bulletin 126—Charter Schools

Renewal process and timeliness, 478R

Bulletin 741—Louisiana Handbook for School Administrators, 588N

Administration of medication, 480R

Carnegie credit for middle school students, 59R, 344N

Compulsory attendance, 481R

Curriculum and instruction 590N

General career and technical education, 601N

Health education, 603N

Individual graduation plan, 604N

Non-complex health procedures, 482R

Public comments, 59R

Response to intervention, 346N

Science education, 483R

Unsafe schools, 604N

## **EDUCATION (continued)**

- Bulletin 741 (Nonpublic)—Louisiana Handbook for School Administrators  
Assessment requirements for a state diploma, 587N
- Bulletin 746—Louisiana Standards for State Certification of School Personnel  
ACT/SAT scores in lieu of PRAXIX I scores, 484R  
Adult education instructor, 485R  
Certification appeal process, 486R  
PRAXIX I scores, 487R  
Standards certificates for teachers in nonpublic/charter schools, 751R  
World language certificate, 486R
- Bulletin 996—Standards for approval of Teacher and/or Educational Leader Preparation Programs  
Programmatic intervention and acronyms, 753R
- Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools  
Driver education and training program for children, 489R
- Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act  
Regulations for students with disabilities, 605N
- Bulletin 1929—Louisiana Accounting and Uniform Government Handbook, 612N
- Student Financial Assistance, Office of**  
Scholarship/Grants Program, 311R, 716ER  
Intersession, 490R  
START Saving Program  
Educational savings account, 313R, 717ER  
Split investment, 492R
- Tuition Trust Authority**  
START Saving Program  
Educational savings account, 313R

## **ENVIRONMENTAL QUALITY**

- Environmental Protection Agency**  
Environmental Protection Agency  
EPA region 4 outer continental shelf (OCS) air quality permitting actions, 704P
- Environmental Services, Office of**  
Permit Services Division  
Standard fees for solid waste transporters, 704P
- Secretary, Office of the**  
Legal Affairs Division  
Control of emissions of nitrogen oxides, 59R  
DEQ notifications to state police, 348N  
Fee schedule, 432N  
Gasoline handling, 641N  
HW tanks—secondary containment requirements and 90 day turnover of hazardous waste, 643N  
Organic solvents and solvent degreasers, 649N  
Regulatory permits for cement and concrete facilities, 350N  
Reportable quantity for brine from solution mining, 655N  
Spill prevention and control, 858N  
Termination determination of CAAA §185 penalty fees—state implementation plan revision, 432P, 705P

- Training requirements for underground storage tank system operators, 313R  
Regulation of greenhouse gas emissions and title v applicability, 431P, 704P

## **EXECUTIVE ORDERS**

- BJ 09-20 Bond Allocation—Jefferson Parish Finance Authority—Amend Executive Order BJ 09-18, 1EO
- BJ 09-21 Executive Branch—Expenditure Reduction, 1EO
- BJ 10-01 Rescinding Executive Orders BJ 08-48 and BJ 08-52, 2EO
- BJ 10-02 Support to Oklahoma, 169EO
- BJ 10-03 State of Emergency—Extension of Qualifying in the Parish of Desoto, 440EO
- BJ 10-04 Carry-Forward Bond Allocation 2009, 440EO
- BJ 10-05 Merit Increase Freeze, 714EO
- BJ 10-06 Expenditure Freeze, 714EO

## **GOVERNOR**

### **Administration, Division of**

- Motion picture investor tax credit program, 52R  
Patient's compensation fund oversight board  
Oversight board administrative role clarifications, 355N  
The veteran initiative-procurement, 507R

### **Architectural Examiners, Board of**

- Admission renewal procedure, 353N

### **Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, Board of**

- General provisions, 493R  
Public hearing—substantive changes, 150P

### **Boxing and Wrestling Commission**

- Boxing and Wrestling Standards, 108N, 354N, 756R

### **Coastal Protection and Restoration Authority**

- Public hearing—state fiscal year 2011 draft annual plan, 153P

### **Contractual Review, Office of**

- The veteran initiative-procurement, 507R

### **Financial Institutions, Office of**

- Expired license reinstatement procedure, 316R  
Non-depository records retention, 656N

### **Information Technology, Office of**

- IT bulletins published, 705P  
Office of electronic services abolition, 863N

### **Law Enforcement and Administration of Criminal**

#### **Justice, Commission on**

- Peace officer training, 355N

### **Louisiana River Pilot Review and Oversight, Board of**

- General provisions, 99N

### **Motor Vehicle Commission**

- General provisions, 864N

### **Public Defender Board**

- Capital Defense Guidelines, 111N

### **State Military Department**

- National guard death and disability benefits, 316R

### **State Purchasing, Office of**

- The veteran initiative-procurement, 507R

**Used Motor Vehicle Commission**

Commission name change, 657N  
 Recreational products regulation, 657N  
 Transfer of licensing, 657N

**HEALTH AND HOSPITALS****Addictive Disorders, Office of**

Need and application reviews, 521R

**Aging and Adult Services, Office of**

Adult protective services, 759R  
 All inclusive care for the elderly, reimbursement rate reduction, 170ER  
 All inclusive care for the elderly, repeal of reimbursement rate reduction, 171ER  
 Facility need review—relocation of nursing facility beds, 364N  
 Home and community based services waivers  
 Adult day health care, reimbursement rate reduction, 177ER  
 Adult day health care, repeal of reimbursement rate reduction, 178ER  
 Nursing facilities admissions, 365N, 737ER  
 Personal care services  
 Long-term, reimbursement rate reduction, 215ER, 673N  
 Long-term, repeal of reimbursement rate reduction, 215ER

**Citizens with Developmental Disabilities, Office of**

Home and community based services waivers  
 Children's choice family training services, 324R  
 Children's choice, reimbursement rate reduction, 178ER  
 New opportunities waiver, reimbursement rate reduction, 662N, 719ER  
 New opportunities waiver, resource allocation model, 65R  
 Supports waiver, reimbursement rate reduction, 179ER

**Dentistry, Board of**

General provisions, 63R

**Health Services Financing, Bureau of**

Adult residential care providers—minimum licensing standards—dementia training requirements, 362N  
 All inclusive care for the elderly, reimbursement rate reduction, 170ER, 171ER  
 Ambulatory surgical centers, reimbursement rate reduction, 172ER, 172ER  
 CommunityCARE Program  
 Immunization, 173ER, 447ER  
 Pay-for-performance initiative, 173ER, 447ER  
 Payment levels, 173ER, 447ER  
 Disproportionate share hospital payments  
 Low income and needy care collaboration, 4ER  
 Mental health emergency room extensions, 717ER  
 Non-rural community hospitals, 4ER  
 Pre-admission certification and length of stay assignment, 65R  
 Radiology utilization management, 512R

Early and periodic screening, diagnosis and treatment  
 KIDMED services, claims filing, 128N, 759R  
 Dental program, reimbursement rate reduction, 174ER  
 Personal care services, 872N  
 Facility need review  
 Adult day health care providers, 322R  
 Relocation of nursing facility beds, 364N  
 Federally qualified health centers  
 Service limits and reimbursement rate reduction, 176ER, 718ER  
 Home and community based services waivers  
 Adult day health care, reimbursement rate reduction, 177ER  
 Adult day health care, repeal of reimbursement rate reduction, 178ER  
 Children's choice family training services, 324R  
 Children's choice, reimbursement rate reduction, 178ER  
 Supports waiver, reimbursement rate reduction, ER 179  
 New opportunities waiver reimbursement rate reduction, 662N, 719ER  
 New opportunities waiver resource allocation model, 65R  
 Residential Options Waiver, 720ER  
 Home health program  
 Durable medical equipment, reimbursement reduction, 180ER, 181ER, 663N, 734ER  
 Nursing and home health aide services, reimbursement rate reduction, 182ER, 183ER  
 Provider accreditation, 512R  
 Provider accreditation requirements, repeal, 735ER  
 Hospital licensing standards  
 Crisis receiving centers, 513R  
 Inpatient hospital services  
 End state renal disease facilities, reimbursement rate reduction, 175ER  
 Family planning waiver, reimbursement rate reduction, 175ER  
 Pre-admission certification, 197ER  
 Long Term Care  
 Intermediate care facilities for persons with development disabilities, 737ER, 881N  
 Non-rural, non-state hospitals  
 Low income and needy care collaboration, 7ER, 184ER  
 Major teaching hospitals, 8ER  
 Outlier payment methodology, 519R  
 Pre-admission certificate, 66R  
 Reimbursement, 448ER, 736ER  
 Reimbursement rate reduction, 186ER, 190ER, 877N  
 Supplemental payments, 194ER  
 Laboratory and radiology services  
 Reimbursement rate reduction, 198ER, 665N  
 Medicaid eligibility  
 Express lane eligibility, 9ER, 882N  
 Medicare savings programs, 11ER

## **HEALTH AND HOSPITALS (continued)**

Medical transportation program  
Emergency ambulance services, reimbursement rate reduction, 199ER, 666N  
Non-emergency ambulance services, reimbursement rate reduction, 200ER, 201ER

Mental health rehabilitation program  
Reimbursement rate reduction, 202ER, 451ER, 668N  
Service Limitations, 451ER, 668N

Multi-systemic therapy  
Prior authorization and reimbursement rate reduction, 202ER  
Reimbursement rate reduction, 453ER, 670N

Nursing facilities  
Admissions, 365N, 737ER  
Adult dentures, replacement and reline limits, 170ER  
Emergency preparedness—electronic reporting requirements, 325R  
Minimum licensing standards—dementia training Requirements, 368N  
Per diem rate reduction, 325R, 520R  
Reimbursement methodology rate determination, 203ER  
Reimbursement rate reduction, 12ER, 204ER, 884N

Outpatient hospital services  
Non-rural, non-state hospitals  
Low income and needy care collaboration, 740ER  
Major teaching hospitals, 16ER  
Radiology utilization management, 67R  
Reimbursement rate reduction, 454ER, 671N  
Supplemental payments, 213ER  
Non-rural, non-state hospitals and children's specialty hospitals, reimbursement rate reduction, 205ER, 209ER  
Non-rural, non-state hospitals, low income and needy care collaboration, 13ER

Personal care services  
Long-term, reimbursement rate reduction, 215ER, 455ER, 673N  
Long-term, repeal of reimbursement rate reduction, 215ER

Pharmacy benefits management program  
Maximum allowable costs, 222ER, 456ER  
Methods of payment, 16ER, 457ER  
Restoration of the dispensing fee, 18ER, 887N  
Restoration of the dispensing fee repeal, 743ER

Pharmacy program  
Medication administration, H1N1 immunizations, 22ER

Pregnant women extended services  
Dental services, reimbursement rate reduction, 216ER

Professional Services Program  
Anesthesia services, reimbursement rate reduction, 217ER, 459ER, 674N  
Family planning services, reimbursement rate reduction, 219ER  
Inpatient physician services, 68R  
Physician services, reimbursement rate reduction, 219ER, 460ER, 676N

Prosthetics and orthotics  
Provider accreditation, 520R  
Reimbursement rate reduction, 221ER, 461ER, 521R, 678N  
Rural health clinics, reimbursement rate reduction, 223ER, 747ER  
Services for special populations  
Pediatric day health care program, 885N  
Targeted case management  
Nurse family partnership program, reimbursement rate reduction, 223ER

### **Medical Examiners, Board of**

Administrative provisions, licensure and certification, practice, 660N

### **Nursing, Board of**

Alternative to disciplinary proceedings, 129N, 358N  
Faculty, 130N, 360N  
Fees for fingerprint imprint, 131N, 359N  
Registered nurses  
Peripherally inserted central catheter, 64R

### **Pharmacy, Board of**

Digital imaging of prescriptions, 755R  
Pharmacy interns, 755R  
Prescription monitoring program, 755R  
Prescription transfers, 756R

### **Psychologists, Board of Examiners of**

Authority, 124N  
Continuing education, 124N  
Credentials, 124N  
Disciplinary action, 124N  
Licensure, 124N  
Supervised practice, 124N  
Supervision of assistants psychologists, 659N  
Supervision of unlicensed assistants, 124N

### **Public Health, Office of**

Advanced notice of rulemaking, 153P  
Disease reporting instructions; perinatal HIV exposure reporting, 370N  
Preparation and handling of seafood for market, 373N  
Preventive health services  
Water supplies—fluoridation, 72R  
Request for comments—fish consumption advisory protocol, 154P

### **Veterinary Medicine, Board of**

Continuing veterinary medicine education, 319R

### **Wholesale Drug Distributors, Board of**

Enforcement action, 321R  
Fees, 158P  
General provisions, 321R  
Required information, 361N  
Wholesale drug or device distributors, 322R

## **INSURANCE**

### **Commissioner, Office of the**

Regulation 99—Certificates of Insurance, 374N, 706P

## **JUSTICE**

### **Attorney General, Office of the**

Certificates of public advantage, 376N



## NATURAL RESOURCES

### Conservation, Office of

Exploration and production site groundwater evaluation and remediation—statewide order no. 29-B, 388N  
Groundwater evaluation, 132N  
Ground water management, 326R  
Manifest system—statewide order no. 29-B, 390N  
Orphaned oilfield sites, 154P, 433P, 706P  
Pit closure techniques and onsite disposal of E & P waste, 679N

### Secretary, Office of

Fishermen's gear compensation fund  
LORAN coordinates, 154P, 433P, 706P

## PUBLIC SAFETY AND CORRECTIONS

### Corrections Services

Crime victim services bureau, 525R  
Death penalty, 525R  
Louisiana risk review panels, 528R  
Offender incentive pay and other wage compensation, 531R  
Public information program and media access, 681N  
Regulation of air traffic, 391N  
Restoration of good time, 26ER, 533R  
Sex offender assessment panels, 23ER, 534R

### Gaming Control Board

Accounting regulations, 392N  
Licensees, permittees, loans and restrictions, 684N

### Private Security Examiners, Board of

Licensing of journeyman, 134N, 764R  
Training, 72R

### State Police, Office of

Explosives code, 550R  
Motorcycle safety training program, 536R  
Preparedness and response act, 545R  
Tow truck license plate, 462ER  
Towing, recovery and storage, 546R, 690N

### State Fire Marshall, Office of the

Code enforcement and building safety  
Fire protection, 687N  
Industrialized buildings, 394N

### State Uniform Construction Code Council

Certification requirements-grandfathering, 690N  
Uniform construction code, 326R

## REVENUE

### Policy Services Division

Ad valorem taxation, 765R  
Corporation income and franchise tax filing extensions, 552R  
Electronic filing requirements for oil or gas severance tax, 691N  
Extension of time to file; waiver of interest, 329R  
Income tax credits for wind or solar energy systems, 692N  
Individual income tax filing extensions, 72R  
March meeting of Act 442 collaborative working group, 706P  
Sales and use tax exemptions, 404N

### Secretary, Office of the

February meeting of Act 442 collaborative working group, 433P

## Tax Commission

Public hearing—substantive changes to proposed rule valuation of oil, gas, and other wells, 434P

## SOCIAL SERVICES

### Community Services, Office of

Foster care, 73R  
Guardianship subsidy program, 552R  
Residential licensing, 329R, 784R  
Adult residential care, disqualification, 831R  
Child residential care, 784R  
Disqualification, 27ER  
Emergency shelter, required records, 227ER  
Notice of revocation action, 696N  
State central registry, 34ER, 135N, 838R  
Social services block grant (SSBG)  
2010-2011 intended use report, 707P  
Temporary assistance to needy families (TANF)  
Caseload reduction report, 434P

### Family Support, Office of

Adult residential care, disqualification, 831R  
Child Care Assistance Program  
Automated time and attendance  
Discontinuation of job search, 40ER, 698N, 747ER  
Military child care providers, 225ER, 555R  
State central registry, 137N  
Child care daycare services  
Child care quality rating system, 332R  
Child care licensing  
Revocation notice, 701N  
State central registry, 41ER, 141N, 847R  
Support enforcement, 74R

### Secretary, Office of

State central registry  
Criminal background and risk assessment evaluation, 45ER, 142N, 850R

## TRANSPORTATION AND DEVELOPMENT

### Outdoor Advertising

Outdoor advertising regulations, 892N

### Professional Engineering and Land Surveying Board

Re-examinations, experience, and licensure status, 405N

## WILDLIFE AND FISHERIES

### Wildlife and Fisheries Commission

Bucks-only deer hunting, 48ER  
Carp, 145N  
Crab traps, 77R  
Elmer's Island Wildlife Refuge, 463ER, 708P  
General and wildlife management area hunting, 406N  
Hunting season, 49ER  
King mackerel, 47ER  
Large coastal shark, 229ER, 748ER  
Nuisance Wildlife Control Operator Program, 74R  
Reef fish, 47ER, 48ER, 897N  
Resident game hunting season, 421N  
Shrimp, 49ER, 143N, 230ER  
Special bait dealer's permit, 77R  
Wildlife rehabilitation program, 852R