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Executive Orders

EXECUTIVE ORDER BJ 13-18

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

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

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

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

WHEREAS, The Louisiana Public Facilities Authority has applied for an allocation of the 2013 Ceiling to be used in connection with the financing by Louisiana Pellets, Inc. of the acquisition, construction, improvement, and expansion of certain solid waste disposal facilities consisting of an approximately, 393,000 square-foot facility on approximately 334 acres of land to be used for a wood pellets production plant, the primary purpose of which is the processing of wood waste to manufacture biomass wood pellets (the "Project") to be located in the Parish of LaSalle, State of Louisiana, within the boundaries of the Issuer; and

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2013 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
$25,000,000	Louisiana Public Facilities Authority	Louisiana Pellets, Inc.

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2013, provided that such bonds are delivered to the initial purchasers thereof on or before December 31, 2013.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of November, 2013.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1312#094

EXECUTIVE ORDER BJ 13-19

Bond Allocation—Louisiana Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

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

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

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

WHEREAS, The Louisiana Community Development Authority has applied for an allocation of the 2013 Ceiling to be used in connection with the financing by BioNitrogen Louisiana Holdings, LLC to develop and construct multiple urea manufacturing facilities to be located at or near the Pointe Coupee Port operations along the Mississippi River in Pointe Coupee Parish, which its Facilities will transform residual agricultural solid waste and other biomass materials into bulk urea product located at La Highway 418, Lettsworth, Pointe Coupee Parish, Louisiana, within the boundaries of the Issuer; and

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2013 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
$300,000,000	Louisiana Community Development Authority	BioNitrogen Louisiana Holdings, LLC

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for

Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2013, provided that such bonds are delivered to the initial purchasers thereof on or before December 31, 2013.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day of December, 2013.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1312#095

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
Taylor Opportunity Program for Students (TOPS)
(LAC 28:IV.701, 705, 805, and 1903)

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, R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797.D(2)).

This rulemaking provides the TOPS continuation requirements for students who earn a certificate or diploma in a technical or nonacademic program, an associate's degree in a technical or academic program, or a baccalaureate degree and who have remaining TOPS eligibility.

This rulemaking also provides a requirement that participating colleges and universities report a student's completion of a program of study, including whether the program was technical or academic, the credential awarded (certificate, diploma, associate's, baccalaureate), and the semester the credential was awarded.

The 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 November 21, 2013, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG14152E)

Title 28
EDUCATION
Part IV. Student Financial Assistance
Higher Education—Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. - E.11.c. …

12. Repealed.

F. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36: 2854 (December 2010), LR 40:

§705. Maintaining Eligibility

A. - E.3. …

F.1. A student who successfully completes an undergraduate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (college), a student who successfully completes an associate's degree in an academic or non-academic program without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:

Chapter 8. TOPS-Tech Award

§805. Maintaining Eligibility

A. - D. …

E. A student who successfully completes a vocational or technical certificate or diploma program or a non-academic degree program without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in another program of study leading to a vocational or technical certificate or diploma or to a non-academic degree no later than the fall semester immediately following the first anniversary of the student's completion of a vocational or technical certificate or diploma program or of a non-academic degree program and has met the requirements for continued eligibility set forth in §805.A.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A.1. - A.2.h. …

3. Beginning with the 2013-2014 academic year (college), an institution shall also report:

a. a student's completion of program of study;

b. whether the program of study was academic or technical;

c. type of credential (degree, certificate, diploma, baccalaureate);

d. semester of completion.

B.1. - G.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1–3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:

George Badge Eldredge
General Counsel

1312#002

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 304, 703, 907, 1103, 1307, 1503, 2503 and 3101)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the real/personal property rules and regulations. The adoption date for this Emergency Rule is December 9, 2013.

This Emergency 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, 2014. Cost indexes required to finalize these assessment tables were not available to this office until late October 2013.

Pursuant to the Administrative Procedure Act, this Emergency Rule shall be in effect for a maximum of 120 days or until adoption of the final Rule or another Emergency Rule, whichever occurs first. The effective date of this Emergency Rule is January 1, 2014.

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 $70,484 for tax year 2014 (2015 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3.-9. …

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:

Chapter 3. Real and Personal Property

§304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications

A. Electronic Change Order Specifications

* * *

B. Property Classifications Standards

* * *

C. Electronic Tax Roll Export Specifications

Parish Information (Parish.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

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.)
* * *	* * *	* * *	* * *	* * *
Homestead_exempt	Numeric	1	Yes	0 = None (Default), 1 = Homestead Exemption, 2 = Over 65 Freeze, 3 = Disabled, 4 = Disabled Vet Freeze, 5 = Widow of POW/MIA, 6 = 100% Disabled Vet Homestead and 7 = Usufruct
* * *	* * *	* * *	* * *	* * *

Assessment Value Information (Avalue.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Millage Group Information (Tgroup.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Parcel Information (Parcel.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.)
* * *	* * *	* * *	* * *	* * *
Subd_name	Character	30	Yes	Subdivision name is available of parcel location
Block_no	Character	4	Yes	Subdivision or city block/square number
Lot_no	Character	4	Yes	First subdivision or city lot number owned by a particular owner
Place_fips	Numeric	5	Yes	Federal Place Code of Taxing Authority (See FIPS table)
* * *	* * *	* * *	* * *	* * *
Occupancy	Character	50	Yes	What the structure is being used for (Residence, Office, Retail, etc.)
Vacant_lot	Character	1	Yes	"Y" = Yes, "N" = No (Default)
Transfer_date	Character	10	Yes	Date of purchase (Format: 01/01/1999)
* * *	* * *	* * *	* * *	* * *
Instr_type	Character	75	Yes	Type of instrument (Cash, Mortgage, Bond for Deed, etc.)
* * *	* * *	* * *	* * *	* * *
Assess_date	Character	10	Yes	Date of last assessment (Format: 01/01/1999)
Subd_phase	Character	3	Yes	Subdivision phase

Legal Description Information (Legal.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Additional Owner Information (Owner.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Improvement Information (Improve.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
Tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
* * *	* * *	* * *	* * *	* * *
Imp_nsqft	Numeric	9.2	No	Square footage of porches, non living areas. etc. (Format: 999999.99)
Imp_tsqft	Numeric	9.2	No	Square footage of all structures assessed (Format: 999999.99)
No_baths	Numeric	3.1	No	Number of bathrooms
No_bedrooms	Numeric	2	No	Number of bedrooms
Year_built	Numeric	4	Yes	Year built (Format: 9999)
Life_expectancy	Numeric	2	No	Life expectancy of structure or improvement
Fact_cond	Numeric	4	Yes	Condition of improvement
Fact_qual	Numeric	4	Yes	Quality of construction
* * *	* * *	* * *	* * *	* * *

Place FIPS Information (FIPS.txt)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:

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**
2013	0.996	1	94	.94
2012	1.004	2	87	.87
2011	1.033	3	80	.83
2010	1.065	4	73	.78
2009	1.057	5	66	.70
2008	1.088	6	58	.63
2007	1.131	7	50	.57
2006	1.192	8	43	.51
2005	1.248	9	36	.45
2004	1.342	10	29	.39
2003	1.388	11	24	.33
2002	1.412	12	22	.31
2001	1.420	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**
2013	0.996	1	97	.97
2012	1.004	2	93	.93
2011	1.033	3	90	.93
2010	1.065	4	86	.92
2009	1.057	5	82	.87
2008	1.088	6	78	.85
2007	1.131	7	74	.84
2006	1.192	8	70	.83
2005	1.248	9	65	.81
2004	1.342	10	60	.81
2003	1.388	11	55	.76
2002	1.412	12	50	.71
2001	1.420	13	45	.64
2000	1.432	14	40	.57
1999	1.458	15	35	.51
1998	1.462	16	31	.45
1997	1.475	17	27	.40
1996	1.499	18	24	.36
1995	1.522	19	22	.33
1994	1.576	20	21	.33
1993	1.621	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. …

* * *

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
	Cost—New By Depth, Per Foot		15 percent of Cost—New By Depth, Per Foot	
Producing Depths	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	38.60	135.09	5.79	20.26
1,250-2,499 ft.	34.85	99.33	5.23	14.90
2,500-3,749 ft.	27.39	65.78	4.11	9.87
3,750-4,999 ft.	37.88	65.54	5.68	9.83
5,000-7,499 ft.	44.54	63.98	6.68	9.60
7,500-9,999 ft.	97.66	86.24	14.65	12.94
10,000-12,499 ft.	284.77	104.61	42.72	15.69
12,500-14,999 ft.	463.12	157.96	69.47	23.69
15,000-17,499 ft.	592.75	180.13	88.91	27.02
17,500-Deeper ft.	N/A	503.85	N/A	75.58

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
	Cost—New By Depth, Per Foot		15 percent of Cost—New By Depth, Per Foot	
Producing Depths	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	296.76	134.20	44.51	20.13
1,250-2,499 ft.	102.48	223.06	15.37	33.46
2,500-3,749 ft.	100.07	177.84	15.01	26.68
3,750-4,999 ft.	88.21	142.26	13.23	21.34
5,000-7,499 ft.	120.50	161.60	18.08	24.24
7,500-9,999 ft.	164.39	169.19	24.66	25.38
10,000-12,499 ft.	224.17	221.16	33.63	33.17
12,500-14,999 ft.	294.06	286.12	44.11	42.92
15,000-17,499 ft.	476.32	383.08	71.45	57.46
17,500-19,999 ft.	581.58	542.62	87.24	81.39
20,000-Deeper ft.	310.54	814.64	46.58	122.20

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
	Cost—New By Depth, Per Foot		15 percent of Cost—New By Depth, Per Foot	
Producing Depths	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	N/A	N/A	N/A	N/A
1,250-2,499 ft.	1,487.57	1,086.95	223.14	163.04
2,500-3,749 ft.	764.92	835.36	114.74	125.30
3,750-4,999 ft.	1,091.85	765.99	163.78	114.90
5,000-7,499 ft.	543.35	709.48	81.50	106.42
7,500-9,999 ft.	688.88	671.37	103.33	100.71
10,000-12,499 ft.	779.86	680.53	116.98	102.08
12,500-14,999 ft.	678.26	662.28	101.74	99.34
15,000-17,499 ft.	467.49	687.19	70.12	103.08
17,500-19,999 ft.	232.86	656.97	34.93	98.55
20,000-Deeper ft.	N/A	1,032.69	N/A	154.90

B. The determination of whether a well is a region 2 or region 3 well is ascertained from its onshore/offshore status as designated on the permit to drill or amended permit to drill form (location of wells section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the permit to drill or amended permit to drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in region 2 or region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2013	245849	Higher	97
2012	244268	245848	93
2011	242592	244267	90
2010	240636	242591	86
2009	239277	240635	82
2008	236927	239276	78
2007	234780	236926	74
2006	232639	234779	70
2005	230643	232638	65
2004	229010	230642	60
2003	227742	229009	55
2002	226717	227741	50
2001	225352	226716	45
2000	223899	225351	40
1999	222882	223898	35
1998	221596	222881	31
1997	220034	221595	27
1996	218653	220033	24
1995	217588	218652	22
1994	216475	217587	21
1993	Lower	216474	20*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. 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. When determining the value of equipment associated with a single well, use the age of that well to determine the appropriate percent good. When determining the value of equipment used on multiple wells, the average age of the wells within the lease/field will determine the appropriate year to be used for this purpose.

5. 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.

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.

Table 907.C.1
Surface Equipment

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#	113,580
300#	125,230
500#	142,500
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 and skids):	
Per Horsepower	360
Evaporators—(assessed on an individual basis)	
Expander Unit—(no metering equipment included):	
Per Unit	41,660
Flow Splitters—(no metering equipment included):	
48 In. Diameter Vessel	20,290
72 In. Diameter Vessel	26,870
96 In. Diameter Vessel	41,180
120 In. Diameter Vessel	58,510
Fire Control System—(assessed on an individual basis)	
Furniture and 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.):	
1-49 HP	750
50-99 HP	1,500
100-999 HP	1,220
1,000-1,499 HP	940

Table 907.C.1
Surface Equipment

Property Description	$ Cost New
1,500 HP and Up	820
Gas Coolers—(no metering equipment);	
5,000 MCF/D	32,000
10,000 MCF/D	36,050
20,000 MCF/D	112,130
50,000 MCF/D	254,390
100,000 MCF/D	416,640
Generators—Package Unit only -(no special installation)	
Per K.W.	240
Glycol Dehydration-Package Unit—(Including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	22,460
4.1 to 5.0 MMCF/D	25,060
5.1 to 10.0 MMCF/D	48,310
10.1 to 15.0 MMCF/D	67,210
15.1 to 20.0 MMCF/D	91,480
20.1 to 25.0 MMCF/D	118,950
25.1 to 30.0 MMCF/D	225,950
30.1 to 50.0 MMCF/D	252,400
50.1 to 75.0 MMCF/D	313,990
75.1 & Up MMCF/D	362,290
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	7,790
30 In. Diameter Vessel-500,000 BTU/HR Rate	9,780
36 In. Diameter Vessel-750,000 BTU/HR Rate	11,830
48 In. Diameter Vessel-1,000,000 BTU/HR Rate	17,510
60 In. Diameter Vessel-1,500,000 BTU/HR Rate	21,620
Water Bath—Indirect Heater:	
24 In. Diameter Vessel-250,000 BTU/HR Rate	6,640
30 In. Diameter Vessel-500,000 BTU/HR Rate	9,120
36 In. Diameter Vessel-750,000 BTU/HR Rate	11,900
48 In. Diameter Vessel-1,000,000 BTU/HR Rate	16,850
60 In. Diameter Vessel-1,500,000 BTU/HR Rate	21,560
Steam—(Steam Generators):	
24 In. Diameter Vessel-250,000 BTU/HR Rate	8,510
30 In. Diameter Vessel-450,000 BTU/HR Rate	10,630
36 In. Diameter Vessel-500 to 750,000 BTU/HR Rate	15,940
48 In. Diameter Vessel-1 to 2,000,000 BTU/HR Rate	18,300
60 In. Diameter Vessel-2 to 3,000,000 BTU/HR Rate	20,710
72 In. Diameter Vessel-3 to 6,000,000 BTU/HR Rate	32,730
96 In. Diameter Vessel-6 to 8,000,000 BTU/HR Rate	39,310
Heat Exchange Units-Skid Mounted—(see Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater-Treaters-(non-metering):	
4 x 20 ft.	17,030
4 x 27 ft.	21,920
6 x 20 ft.	22,950
6 x 27 ft.	28,860
8 x 20 ft.	36,770
8 x 27 ft.	43,050
10 x 20 ft.	48,610
10 x 27 ft.	57,180
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	42,270
Up to 5 MMCF/D	60,380
Up to 10 MMCF/D	144,920
Up to 20 MMCF/D	241,530
Liqua Meter Units—(see Metering Equipment)	
Manifolds—(see Metering Equipment)	
Material and Supplies-Inventories—(assessed on an individual basis)	
Meter Calibrating Vessels—(see Metering Equipment)	
Meter Prover Tanks—(see Metering Equipment)	
Meter Runs—(see Metering Equipment)	

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Meter Control Stations—(not considered Communication Equipment)-(assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic and electric valves	6,580
Controllers—time cycle valve-valve controlling device (also known as Intermitter)	2,050
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel-1/2 bbl. Dump	5,010
30 In. Diameter Vessel-1 bbl. Dump	6,460
36 In. Diameter Vessel-2 bbl. Dump	8,940
2 Level Control	
20 In. Diameter Vessel-1/2 bbl. Dump	4,710
24 In. Diameter Vessel-1/2 bbl. Dump	5,680
30 In. Diameter Vessel-1 bbl. Dump	7,130
36 In. Diameter Vessel-2 bbl. Dump	9,600
L.A.C.T. and A.T.S. Units:	
30 lb. Discharge	31,640
60 lb. Discharge	36,050
Manifolds—Manual Operated:	
High Pressure	
per well	24,820
per valve	8,390
Low Pressure	
per well	12,020
per valve	3,990
Manifolds—Automatic Operated:	
High Pressure	
per well	44,860
per valve	14,790
Low Pressure	
per well	32,000
per valve	10,810
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.	
Meter Runs—piping, valves & supports—no meters:	
2 In. piping and valve	6,760
3 In. piping and valve	7,610
4 In. piping and valve	9,180
6 In. piping and valve	12,800
8 In. piping and valve	19,230
10 In. piping and valve	25,600
12 In. piping and valve	32,000
14 In. piping and valve	43,600
16 In. piping and valve	56,940
18 In. piping and valve	70,530
20 In. piping and valve	91,660
22 In. piping and valve	115,510
24 In. piping and valve	141,410
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,920
5 bbl. calibration plate (24 x 10)	4,230
7.5 bbl. calibration plate (30 x 10)	5,920
10 bbl. calibration plate (36 x 10)	7,370
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	2,720
per meter	
Solar Panel (also see Telecommunications)	360
per unit (10' x 10')	
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size-per mile	19,680
2 1/2 In. nominal size-per mile	26,510
3 and 3 1/2 In. nominal size-per mile	33,810
4, 4 1/2 and 5 In. nominal size-per mile	58,150
6 In. nominal size-per mile	85,380
Poly Pipe	
2 In. nominal size-per mile	10,810
2 1/2 In. nominal size-per mile	14,550

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
3 In. nominal size-per mile	18,600
4 In. nominal size-per mile	31,940
6 In. nominal size-per mile	46,920
Plastic-Fiberglass	
2 In. nominal size-per mile	16,790
3 In. nominal size-per mile	28,740
4 In. nominal size-per mile	49,390
6 In. nominal size-per mile	72,520
NOTE: Allow 90 percent 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 and 1 heater—500 MCF/D	21,250
Class II-per unit—separator and 1 heater—750 MCF/D	28,320
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	300
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	360
Class II-(high pressure injection, etc.)	
301 HP and up per HP of motor	420
Pumping Units-Conventional and Beam Balance—(unit value includes motor)-assessed according to API designation.	6,940
16 D	13,040
25 D	16,300
40 D	21,740
57 D	36,290
80 D	37,740
114 D	50,780
160 D	55,130
228 D	69,680
320 D	82,720
456 D	100,170
640 D	105,970
912 D	
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(see Metering Equipment)	
Regulators:	
per unit	2,780
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	5,560
well and production equipment	6,400
with surface op. ssv, add	9,600
Offshore 0-3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	16,000
production train	40,030
glycol dehydration system	24,030
P/L pumps and LACT	56,030
Compressors	35,200
Wellhead Actuators (does not include price of the valve)	
5,000 psi	3,990
10,000 psi and over	5,980
NOTE: For installation costs-add 25 percent	

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
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	3,380
10 In. Diameter Vessel	4,830
12 In. Diameter Vessel	5,490
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	1,570
12 In. Diameter Vessel	2,050
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”	4,950
8-5/8” OD x 7’-6”	5,370
10-3/4” OD x 8’-0”	7,550
12-3/4” OD x 8’-0”	10,140
16” OD x 8’-6”	16,300
20” OD x 8’-6”	24,090
20” OD x 12’-0”	25,360
24” OD x 12’-6”	34,180
30” OD x 12’-6”	49,880
36” OD x 12’-6”	59,300
Separators—(no metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24” OD x 7’-6”	5,620
30” OD x 10’-0”	6,040
36” OD x 10’-0”	12,620
Vertical 3—Phase /125 psi (Low Pressure)	
24” OD x 7’-6”	5,920
24” OD x 10’-0”	6,700
30” OD x 10’-0”	9,300
36” OD x 10’-0”	13,220
42” OD x 10’-0”	15,340
Horizontal 3—Phase /125 psi (Low Pressure)	
24” OD x 10’-0”	8,760
30” OD x 10’-0”	11,230
36” OD x 10’-0”	12,260
42” OD x 10’-0”	19,560
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4” OD x 5’-0”	3,320
16” OD x 5’-6”	4,950
20” OD x 7’-6”	9,420
24” OD x 7’-6”	11,410
30” OD x 10’-0”	17,390
36” OD x 10’-0”	22,520
42” OD x 10’-0”	36,050
48” OD x 10’-0”	42,510
54” OD x 10’-0”	64,370
60” OD x 10’-0”	80,490
Vertical 3-Phase /1440 psi (High Pressure)	
16” OD x 7’-6”	5,800
20” OD x 7’-6”	10,140
24” OD x 7’-6”	11,770
30” OD x 10’-0”	18,170
36” OD x 10’-0”	23,250
42” OD x 10’-0”	37,920
48” OD x 10’-0”	43,960
Horizontal 2—Phase /1440 psi (High Pressure)	
16” OD x 7’-6”	5,680
20” OD x 7’-6”	9,120
24” OD x 10’-0”	12,440
30” OD x 10’-0”	19,140
36” OD x 10’-0”	24,270
42” OD x 15’-0”	49,270
48” OD x 15’-0”	56,820
Horizontal 3—Phase /1440 psi (High Pressure)	
16” OD x 7’-6”	8,760
20” OD x 7’-6”	9,780
24” OD x 10’-0”	14,250

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
30” OD x 10’-0”	20,290
36” OD x 10’-0”	29,220
36” OD x 15’-0”	32,670
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30” OD x 10’-0”	42,090
36” OD x 10’-0”	40,150
36” OD x 12’-0”	58,270
36” OD x 15’-0”	60,800
42” OD x 15’-0”	94,380
Skimmer Tanks—(see Flow Tanks in Tanks section)	
Stabilizers—per unit	6,220
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—no metering equipment	Per Barrel*
Flow Tanks (receiver or gunbarrel)	38.90
50 to 548 bbl. Range (average tank size-250 bbl.)	
Stock Tanks (lease tanks)	30.20
100 to 750 bbl. Range (average tank size – 300 bbl.)	
Storage Tanks (Closed Top)	
1,000 barrel	25.70
1,500 barrel	22.70
2,000 barrel	22.10
2,001-5,000 barrel	20.30
5,001-10,000 barrel	19.10
10,001-15,000 barrel	17.90
15,001-55,000 barrel	12.50
55,001-150,000 barrel	9.40
Internal Floating Roof	
10,000 barrel	36.70
20,000 barrel	24.90
30,000 barrel	18.50
50,000 barrel	16.40
55,000 barrel	15.80
80,000 barrel	14.00
100,000 barrel	12.20
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone and data transmission	48,310
Radio telephone	3,620
Supervisory controls:	
remote terminal unit, well	10,330
master station	23,550
towers (installed):	
heavy duty, guyed, per foot	600
light duty, guyed, per foot	50
heavy duty, self supporting, per foot	620
light duty, self supporting, per foot	130
equipment building, per sq. ft.	180
solar panels, per sq. ft.	60
Utility Compressors	
per horsepower-rated on motor	800
Vapor Recovery Unit—no Metering Equipment	
60 MCF/D or less	21,130
105 MCF/D max	30,190
250 MCF/D max	39,850
Waterknockouts—Includes unit, backpressure valve and regulator, but, no metering equipment.	
2’ diam. x 16’	5,740
3’ diam. x 10’	8,570
4’ diam. x 10’	11,830
6’ diam. x 10’	19,380
6’ diam. x 15’	22,400
8’ diam. x 10’	28,080
8’ diam. x 15’	32,240
8’ diam. x 20’	35,750
8’ diam. x 25’	39,790
10’ diam. x 20’	46,800

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	**$ Cost New**
Air and Water Units:	
Above ground	1,350
Below ground	570
Air Compressors:	
1/3 to 1 H.P.	1,810
1/2 to 5 H.P.	3,060
Car Wash Equipment:	
In Bay (roll over brushes)	48,610
In Bay (pull through)	75,450
Tunnel (40 to 50 ft.)	164,240
Tunnel (60 to 75 ft.)	219,790
Drive On Lifts:	
Single Post	8,880
Dual Post	10,000
Lights:	
Light Poles (each)	910
Lights-per pole unit	1,000
Pumps:	
Non-Electronic-self contained and/or remote controlled computer	
Single	3,840
Dual	5,710
Computerized-non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	6,500
Dual	8,760
Read-Out Equipment (at operator of self service)	
Per Hose Outlet	1,430
Signs:	
Station Signs	
6 ft. lighted-installed on 12 ft. pole	4,290
10 ft. lighted-installed on 16 ft. pole	7,850
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	3,570
Lighted "pricing" (5 x 9 ft.)	3,660
High Rise Signs-16 ft. lighted-installed on:	
1 pole	12,990
2 poles	17,000
3 poles	19,020
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	6,910
Lighted "pricing" (5 x 9 ft.)	3,660
Submerged Pumps—(used with remote control equipment, according to number used-per unit)	3,830
Tanks—(average for all tank sizes) Underground-per gallon	2.20

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:

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	893,000	134,000
4,000	1,010,900	151,600
5,000	1,262,300	189,300
6,000	1,701,100	255,200
7,000	2,278,300	341,700
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
8,000	2,944,100	441,600
9,000	3,650,000	547,500
10,000	4,350,400	652,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
11,000	5,005,500	750,800
12,000	5,582,500	837,400
13,000	6,057,900	908,700
14,000	6,419,800	963,000
15,000	6,669,500	1,000,400
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
16,000	6,823,900	1,023,600
17,000	6,917,300	1,037,600
18,000	7,003,600	1,050,500
19,000	7,158,200	1,073,700
20,000	7,479,800	1,122,000
Depth 21,000 + Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
21,000	8,093,200	1,214,000
25,000 +	9,150,500	1,372,600

1.-2. …

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	**Water Depth Rating**	**Fair Market Value**	**Assessment**
IC	0-199 FT.	$ 54,100,000	$ 8,115,000
	200-299 FT.	108,200,000	16,230,000
	300-Up FT.	216,100,000	32,415,000
IS	0-199 FT.	16,300,000	2,445,000
	200-299 FT.	27,100,000	4,065,000
	300- Up FT.	32,400,000	4,860,000

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
MC	0-199 FT	5,500,000	825,000
	200-299 FT.	10,800,000	1,620,000
	300- Up FT.	43,300,000	6,495,000
MS	0-249 FT.	11,300,000	1,695,000
	250 FT. and Deeper	22,300,000	3,345,000

IC—Independent Leg Cantilever
IS—Independent Leg Slot
MC—Mat Cantilever
MS—Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
	$	$
0- 800 FT.	49,400,000	7,410,000
801-1,800 FT.	88,600,000	13,290,000
1,801-2,500 FT.	162,300,000	24,345,000
2,501FT. and Deeper	509,500,000	76,425,000

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. - 3.b.i. …

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	71’ X 125M# 71’ X 150M# 72’ X 125M# 72’ X 150M# 75’ X 150M#	C-7 50 SERIES 6V71	210,000	31,500
II	96’ X 150M# 96’ X 180M# 96’ X 185M# 96’ X 200M# 96’ X 205M# 96’ X 210M# 96’ X 212M# 96’ X 215M#	C-11 50 SERIES 8V71	269,000	40,400
III	96’ X 240M# 96’ X 250M# 96’ X 260M# 102’ X 215M#	C-11 50 SERIES 8V92	320,000	48,000
IV	102’ X 224M# 102’ X 250M# 103’ X 225M# 103’ X 250M# 104’ X 250M# 105’ X 225M# 105’ X 250M#	C-15 60 SERIES 12V71	380,000	57,000
V	105’ X 280M# 106’ X 250M# 108’ X 250M# 108’ X 260M# 108’ X 268M# 108’ X 270M# 108’ X 300M#	C-15 60 SERIES 12V71 12V92	420,000	63,000

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
VI	110’ X 250M# 110’ X 275M# 112’ X 300M# 112’ X 350M#	C-15 60 SERIES 12V71 (2) 8V92	510,000	76,500
VII	117’ X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	660,000	99,000

D.1. - E.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	$ 171,010	$ 25,650
4	201,500	30,230
6	237,440	35,620
8	279,780	41,970
10	329,680	49,450
12	388,470	58,270
14	457,740	68,660
16	539,370	80,910
18	635,560	95,330
20	748,900	112,340
22	882,460	132,370
24	1,039,830	155,970
26	1,225,260	183,790
28	1,443,760	216,560
30	1,701,230	255,180
32	2,004,620	300,690
34	2,362,110	354,320
36	2,783,350	417,500
38	3,279,710	491,960
40	3,864,580	579,690
42	4,553,760	683,060
44	5,365,850	804,880
46	6,322,750	948,410
48	7,450,300	1,117,550

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 percent of Cost per Mile**
2	$1,013,150	$151,970
4	1,014,670	152,200
6	1,017,040	152,560
8	1,029,330	154,400
10	1,049,370	157,410
12	1,077,160	161,570
14	1,112,690	166,900
16	1,155,970	173,400
18	1,207,000	181,050
20	1,265,770	189,870
22	1,332,290	199,840
24	1,406,560	210,980
26	1,488,580	223,290
28	1,578,340	236,750
30	1,675,850	251,380
32	1,781,110	267,170
34	1,894,110	284,120
36	2,014,860	302,230
38	2,143,360	321,500
40	2,279,610	341,940
42	2,423,600	363,540
44	2,575,340	386,300
46	2,734,830	410,220
48	2,902,060	435,310

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	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

* Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:

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**
2013	0.996	1	97	.97
2012	1.004	2	93	.93
2011	1.033	3	90	.93
2010	1.065	4	86	.92
2009	1.057	5	82	.87
2008	1.088	6	78	.85
2007	1.131	7	74	.84
2006	1.192	8	70	.83
2005	1.248	9	65	.81
2004	1.342	10	60	.81
2003	1.388	11	55	.76
2002	1.412	12	50	.71
2001	1.420	13	45	.64
2000	1.432	14	40	.57
1999	1.458	15	35	.51
1998	1.462	16	31	.45
1997	1.475	17	27	.40
1996	1.499	18	24	.36
1995	1.522	19	22	.33
1994	1.576	20	21	.33
1993	1.621	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:

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, 2013 = 100*
2013	1	1558.7	0.996
2012	2	1545.9	1.004
2011	3	1503.2	1.033
2010	4	1457.4	1.065
2009	5	1468.6	1.057
2008	6	1427.3	1.088
2007	7	1373.3	1.131
2006	8	1302.3	1.192
2005	9	1244.5	1.248
2004	10	1157.3	1.342
2003	11	1118.6	1.388
2002	12	1100.0	1.412
2001	13	1093.4	1.420
2000	14	1084.3	1.432
1999	15	1065.0	1.458
1998	16	1061.8	1.462
1997	17	1052.7	1.475
1996	18	1036.0	1.499
1995	19	1020.4	1.522
1994	20	985.0	1.576
1993	21	958.0	1.621
1992	22	939.8	1.652
1991	23	928.5	1.672
1990	24	910.2	1.706
1989	25	886.5	1.752
1988	26	841.4	1.845

*Reappraisal Date: January 1, 2013 – 1552.8 (Base Year)

C. …

* * *

D. Composite Multipliers 2014 (2015 Orleans Parish)

Table 2503.D Composite Multipliers 2014 (2015 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98
2	.49	.69	.73	.79	.84	.87	.90	.93	.95
3	.35	.54	.59	.69	.79	.83	.88	.93	.94
4	.17	.36	.44	.58	.71	.78	.84	.92	.94
5		.24	.32	.45	.61	.70	.77	.87	.92
6		.20	.21	.36	.53	.63	.74	.85	.91
7			.20	.29	.44	.57	.70	.84	.90
8				.26	.36	.51	.66	.83	.89
9				.25	.30	.45	.61	.81	.88
10					.28	.39	.58	.81	.87
11					.28	.33	.51	.76	.87
12						.31	.44	.71	.87
13						.28	.37	.64	.85
14							.33	.57	.80
15							.31	.51	.76
16							.29	.45	.70
17								.40	.65
18								.36	.58
19								.33	.52
20								.33	.47
21								.32	.45
22									.43
23									.40
24									.34
25									.33
26									.32

1. Data sources for tables are:
   a. cost index—Marshall and Swift Publication Co.;
   b. percent good—Marshall and Swift Publication Co.;
   c. average economic life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:

Chapter 31. Public Exposure of Assessments; Appeals

§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. Assessment lists shall be open for public inspection each year for a period of 15 days, beginning no earlier than August 15 and ending no later than September 15, except in Jefferson Parish, where the lists shall be open for public inspection no earlier than August 1 and ending no later than September 15 and in Orleans Parish, the lists shall be exposed daily, except Saturday, Sunday, and legal holidays, for inspection by the taxpayers and other interested persons during the period of July 15-August 15 of each year unless August 15 falls on a weekend or a legal holiday, when the period shall extend until the next business day.

1. If and when the taxable assessment of a taxpayer's property for a tax year increases by 15 percent or more from its assessment in the previous tax year, the assessor, prior to opening the assessment lists for public inspection, shall provide notice to a taxpayer of the assessment for current tax year and previous tax year by using Form TC-2, notice of increase in property value (see R.S. 47:1987).

B.1.-G. …

H. Notwithstanding any provision of law to the contrary, the procedure for inspection of assessment lists in Orleans Parish shall be as follows.

1. The assessor shall prepare and make up the lists showing the assessment of immovable and movable property in Orleans Parish. The lists shall be exposed daily, except Saturday, Sunday and legal holidays, for inspection by the taxpayers and other interested persons during the period of July 15 through August 15 of each year unless August 15 falls on a weekend or a legal holiday, when the period shall extend until the next business day. The assessor shall give notice of such exposure for inspection in accordance with rules and regulations established by the Louisiana Tax Commission. On or before the tenth business day after the completion of public inspection, the assessor shall certify his rolls to the Board of Review.

H.2.a.-K. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:

James D. "Pete" Peters
Chairman

1312#024

DECLARATION OF EMERGENCY

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

Behavioral Health Services
Physician Reimbursement Methodology
(LAC 50:XXXIII.1701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amends LAC 50:XXXIII.1701 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 adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program, called the Louisiana Behavioral Health Partnership (LBHP), to provide adequate coordination and delivery of behavioral health services through the utilization of a statewide management organization (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing the reimbursement of physician services rendered in the LBHP in order to establish a distinct payment methodology that is independent of the payment methodology established for physicians in the Professional Services Program (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for certain physician services provided under the LBHP to exclude these services from the January 2013 Medicare rate changes (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2013 Emergency Rule.

This action is being taken to protect the public health and welfare of Medicaid recipients who rely on behavioral health services by ensuring continued provider participation in the Medicaid Program.

Effective December 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing the reimbursement methodology for certain behavioral health services rendered in the Medicaid Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 2. General Provisions
Chapter 17. Behavioral Health Services Reimbursements

§1701. Physician Payment Methodology

A. - B. Reserved.

C. Effective for dates of service on or after September 1, 2013, the reimbursement for procedure codes 90791, 90792, 90832, 90834 and 90837 shall be excluded from the January 2013 Medicare rate changes and shall remain at the Medicaid fee schedule on file as of December 31, 2012.

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 Behavioral Health, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#062

DECLARATION OF EMERGENCY

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

Behavioral Health Services
Statewide Management Organization
LaCHIP Affordable Plan Benefits Administration
(LAC 50:XXXIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.103 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 adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide services through the utilization of a statewide management organization that is responsible for the necessary administrative and operational functions to ensure adequate coordination and delivery of behavioral health services (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the February 2012 Rule in order to include the administration of behavioral health services covered under the LaCHIP affordable plan (phase 5) (*Louisiana Register*, Volume 38, Number 12). LaCHIP Affordable Plan benefits, including behavioral health services, were administered by the Office of Group Benefits. The administration of these services was transferred to the statewide management organization under the Louisiana Behavioral Health Partnership. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective December 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing behavioral health services coordinated by the statewide management organization to include recipients covered under the LaCHIP Affordable Plan.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 1. Statewide Management Organization
Chapter1. General Provisions
§103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in the coordinated behavioral health system of care:

1. - 6. …

7. Title XXI SCHIP populations, including:
   a. LaCHIP phases 1-3; and
   b. LaCHIP Affordable Plan (phase 5).

B. …

C. Notwithstanding the provisions of §103.A above, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:

1. - 7. …

8. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);

9. recipients enrolled in the Low Income Subsidy Program;

10. participants in the take charge family planning waiver; and

11. recipients enrolled in the LaMOMS Program.

12. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#061

DECLARATION OF EMERGENCY

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

Behavioral Health Services—Supplemental Payments
(LAC 50:XXXIII.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopts LAC 50:XXXIII.Chapter 161 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 adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program which provides coverage of behavioral

health services to children and adults through the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing behavioral health services in order to establish supplemental Medicaid payments for state-owned and operated behavioral health providers (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and to ensure recipient access to behavioral health services.

Effective January 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopt provisions to establish supplemental Medicaid payments for state-owned and operated behavioral health providers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 17. Supplemental Payments

Chapter 161. General Provisions

§16101. Qualifying Criteria

A. Effective for dates of service on or after January 20, 2013, providers of behavioral health services may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the behavioral health provider must be:

1. licensed as necessary by the state of Louisiana;
2. enrolled as a Medicaid provider; and
3. a government-owned and operated entity or a quasi-governmental entity.

B. Providers of the following services shall be eligible to receive supplemental payments:

1. providers furnishing services through a statewide management organization;
2. children's mental health services;
3. behavioral health services;
4. home and community-based waiver services;
5. psychiatric residential treatment facility services;
6. therapeutic group home services;
7. substance abuse services; and
8. local government juvenile justice programs.

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 Behavioral Health, LR 39:

§16103. Payment Methodology

A. The supplemental payment shall be calculated in a manner that will bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

B. The behavioral health provider shall periodically furnish satisfactory data for calculating the community rate as requested by the department.

C. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the behavioral health provider. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

1. The Medicare to community rate conversion factor shall be recalculated at least every three years.

D. The supplemental payments shall be made on a quarterly basis.

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 Behavioral Health, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Coordinated Care Network—LACHIP Affordable Plan Benefits Administration (LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3103 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 adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve performance and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the coordinated care

networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program (*Louisiana Register*, Volume 38, Number 12). These services were administered by the Office of Group Benefits. The administration of these services were transferred to the health plans participating in the BAYOU HEALTH Program. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs and to promote the health and welfare of recipients enrolled in the LaCHIP Affordable Plan.

Effective December 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing coordinated care networks in order to include Affordable Plan recipients in the BAYOU HEALTH Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Medicaid Coordinated Care
Chapter 31. Coordinated Care Network
§3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. - 1.c. …

d. uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid;

e. …

f. children under the age of 19 enrolled in the LaCHIP Affordable Care Plan (phase 5); and

A.2. - B.1.b.v. …

NOTE. Repealed.

C. …

D. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. - g. …

h. are participants in the Take Charge Family Planning Waiver Program;

i. are eligible through the Tuberculosis Infected Individual Program; or

j. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

E. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#064

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Coordinated Care Network—Physician Services
Reimbursement Methodology (LAC 50:I.3307 and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3307 and §3509 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 adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve quality of care and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain physician services (if they were covered) at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective December 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Medicaid Coordinated Care
Chapter 33. Coordinated Care Network Shared Savings Model
§3307. Reimbursement Methodology

A. - F.3.l. ...

m. durable medical equipment and supplies;

n. orthotics and prosthetics; and

o. payments made to providers for purposes of complying with section 1932(f) of the Social Security Act and 42 CFR 438.6(c)(5)(vi).

4. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1581 (June 2011), amended LR 39:

Chapter 35. Coordinated Care Network Managed Care Organization Model

§3509. Reimbursement Methodology

A. - A.5. ...

6. A CCN-P shall be reimbursed payments in order to comply with Section 1932(f) of the Social Security Act and 42 CFR 439.6(c)(5)(vi) on a quarterly basis or other period specified by DHH.

a. For calendar years 2013 and 2014 the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, consistent with 42 CFR 438.5 and 438.804 as approved by CMS and as specified in the terms and conditions of the contract between DHH and the CCN-P.

B. - J.2. ...

a. Repealed.

3. For calendar years 2013 and 2014, the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, as specified in the terms and conditions of the contract between DHH and the CCN-P. The CCN-P shall also provide documentation to the state sufficient to enable the state and CMS to ensure that provider payments increase as required by paragraph 42 CFR 438.6(c)(5)(vi)(A) of this Section.

a. The term *member* shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

4. The CCN-P may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The CCN-P shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the CCN-P is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

M. - N.2.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#065

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
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 amend 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 promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This action is being taken to comply with the provisions of the

approved waiver application and to secure enhanced federal funding.

Effective January 14, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend 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 39:

§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. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

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 39:

§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 39:

§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 39:

§16107. Programmatic Allocation of Waiver Opportunities

A. The developmental disabilities request for services registry (RFSR), hereafter referred to as "the registry," shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. 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.

a. - e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person's name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD Host Home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

i. homeless;

ii. at imminent risk of losing current residential placement;

iii. referred by the judicial system;

iv. referred by child, adult, or elderly protective authorities;

v. without a caregiver and cannot adequately care for self;

vi. with a caregiver who can no longer provide care; or

vii. whose needs cannot be met within a community living situation;

3. children who:

a. are from birth to age 18;

b. reside in a nursing facility;

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

d. participate in the MFP rebalancing demonstration; and

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

4. persons 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;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

C.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 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 39:

§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 39:

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 39:

§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 though 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; and

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 39:

§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 39:

§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 39:

§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 39:

§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 39:

§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 sand 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 Children and Family 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 39:

§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 39:

§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;

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 39:

§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 39:

§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 39:

§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 5 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 39:

§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 39:

§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 39:

§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 39:

§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 39:

§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 39:

§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 39:

§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 39:

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 39:

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 39:

§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 39:

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. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for residential options waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:
   a. personal emergency response services;
   b. environmental accessibility adaption services;
   c. specialized medical equipment and supplies; and
   d. support coordination 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 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

§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 39:

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

Kathy H. Kliebert
Secretary

1312#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Cost Reports and Specialized Care Reimbursement
(LAC 50:II.20003 and 20027)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20003 and adopts LAC 50:II.20027 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 848 of the 2006 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to adjust individual nursing facility rates quarterly based on the case mix score for all patients of the nursing facility. Act 824 of the 2006 Regular Session of the Louisiana Legislature mandated that all nursing facilities have a supervised automatic fire sprinkler system and/or a two-hour rated wall and provided for the offset of costs associated with the installation of these systems in Medicaid-certified nursing facilities. In compliance with Acts 848 and 824, the department amended the provisions governing reimbursement methodology for nursing facilities to allow for a quarterly adjustment of individual nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register,* Volume 32, Number 12).

The Department of Health and Hospitals, Bureau of Health Services Financing has now determined that it is necessary to amend the provisions governing nursing facilities in order to redefine and clarify the provisions governing cost reports and reimbursement methodology. This action is being taken to promote the health and welfare of Medicaid recipients and to ensure that cost reporting is more accurate and efficient. It is anticipated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2013-14.

Effective January 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing cost reports for nursing facilities and adopts provisions governing reimbursement.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20003. Cost Reports

A. - A.2. …

3. Separate cost reports must be submitted by central/home offices when costs of the central/home office are reported in the facility's cost report.

4. Repealed.

B. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§20027. Specialized Care Reimbursement

A. A specialized care reimbursement rate shall consist of a nursing facility's Medicaid case-mix reimbursement rate plus an add-on amount. These rates can be established by the department for a specialized care unit.

B. Nursing Facility Specialized Care Unit Reimbursement

1. Effective with the January 1, 2014 rate period, infectious disease (ID) specialized care costs will no longer be reimbursed through a separate per diem add-on payment. ID costs and days will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter.

2. Effective with the January 1, 2014 rate period, technologically dependent care (TDC) costs and days will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter. TDC services will continue to be reimbursed through a separate per diem add-on payment. The department will be solely responsible for determining adjustments to the TDC per diem add-on payment.

3. Effective with the January 1, 2014 rate period, Neurological Rehabilitation Treatment Program (NRTP) costs and days for both rehabilitative and complex services will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter. NRTP services will be reimbursed through a separate per diem add-on payment. The department will be solely responsible for determining adjustments to the NRTP per diem add-on payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#060

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5315, §5515, §5717, §5915 and §6117 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 outpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals for state fiscal year 2013 (*Louisiana Register*, Volume 39, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 7). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2013 Emergency Rule in order to further revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the *Code of Federal Regulation* citation (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective January 19, 2014, 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 public hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospitals
Chapter 53. Outpatient Surgery
Subchapter B. Reimbursement Methodology
§5315. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a Medicare Metropolitan Statistical Area (MSA) per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5515. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5717. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in an MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

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, Bureau of Health Services Financing, LR 36:2868 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5915. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6117. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Pharmacy Benefits Management Program
Medication Administration
Influenza Vaccinations
(LAC 50:XXIX.123, 991 and 993)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.123 and §991 and adopts §993 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 Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of the influenza vaccine for all Medicaid recipients, and to provide reimbursement for the cost of the influenza vaccine for Medicaid recipients 19 years of age and older (*Louisiana Register*, Volume 36, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to the influenza vaccine.

Effective December 25, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program to allow reimbursement for the influenza vaccine and administration of the vaccine.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy

Chapter 1. General Provisions

§123. Medication Administration

A. Influenza Vaccine Administration. The department shall provide coverage for administration of the influenza vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and

2. the pharmacist is Medicaid-enrolled.

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 36:1783 (August 2010), amended LR 39:

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. ...

B. Effective for dates of service on or after January 1, 2011, the reimbursement for administration of the influenza vaccine for all recipients shall be reimbursed at $15.22 for subcutaneous or intramuscular injection, $10.90 for nasal/oral administration or billed charges, whichever is the lesser amount. This fee includes counseling, when performed.

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 36:1783 (August 2010), amended LR 39:

§993. Vaccine Reimbursement

A. Effective for dates of service on or after January 1, 2011, the influenza vaccine for recipients aged 19 and over shall be reimbursed at 90 percent of the 2009 Louisiana Medicare average sales price (ASP) allowable or billed charges, whichever is the lesser amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Kathy H. Kliebert
Secretary

1312#068

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Pregnant Women Extended Services
Substance Abuse Screening and Intervention Services
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.Chapter 163 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 provides expanded coverage of certain dental services rendered to Medicaid eligible pregnant women who are in need of periodontal treatment as a means of improving the overall health of mothers and their newborns (*Louisiana Register*, Volume 30, Number 3).

As part of the Department of Health and Hospital's ongoing initiative to improve birth outcomes in the state, the Bureau of Health Services Financing, in collaboration with the Office of Behavioral Health, promulgated an Emergency Rule which adopted provisions to establish Medicaid coverage for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 4). Research has shown that tobacco dependence and substance abuse intervention programs targeted to pregnant women improves the overall health of the mother and reduces the occurrences of low birth-weight babies and perinatal deaths. It is anticipated that these new services will improve birth outcomes and subsequently reduce Medicaid costs associated with the care of pregnant women and their babies.

The department promulgated an Emergency Rule which amended the April 1, 2011 Emergency Rule in order to require providers to use the Louisiana health assessment referral and treatment system (LaHART) to receive payment for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 38, Number 11). LaHART is a web-based, prenatal behavioral health screening system that screens for tobacco, drug and alcohol abuse as well as domestic violence.

The department promulgated an Emergency Rule which amended the November 20, 2012 Emergency Rule in order to allow additional LaHART screening and brief intervention services during the service limit time period under certain circumstances (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and to reduce the Medicaid costs associated with the care of pregnant women and their babies.

Effective January 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 13. Pregnant Women Extended Services
Chapter 163. Substance Abuse Screening and Intervention Services

§16301. General Provisions

A. Effective for dates of service on or after April 1, 2011, the department shall provide coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women with the Louisiana health assessment referral and treatment system.

B. Substance abuse screening and intervention services may be performed with the Louisiana health assessment referral and treatment system at the discretion of the medical professional providing care to the pregnant woman.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§16303. Scope of Services

A. Screening services shall include the screening of pregnant women with the Louisiana health assessment referral and treatment system for the use of:

1. alcohol;
2. tobacco;
3. drugs; and/or
4. domestic violence.

B. Intervention services shall include a brief 15-30 minute counseling session with a health care professional intended to help motivate the recipient to develop a plan to moderate or cease their use of alcohol, tobacco, or drugs.

C. Service Limits. Substance abuse screening and intervention services shall be limited to one occurrence each per pregnancy, or once every 270 days.

1. If the patient experiences a miscarriage or fetal death and becomes pregnant within the 270-day period, all LaHART screening and brief intervention services will be reimbursed for the subsequent pregnancy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§16305. Reimbursement Methodology

A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement for substance abuse screening and intervention services rendered to Medicaid-eligible pregnant women.

B. Reimbursement for these services shall be a flat fee based on the appropriate healthcare common procedure coding (HCPC) code.

C. Effective for dates of service on or after January 1, 2013, Medicaid reimbursement for substance abuse screening and intervention services shall only be made to providers with documented use of the LaHART system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Fluoride Varnish Applications
(LAC 50:IX.901-905 and 15105)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.901-905 and §15105 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 promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to establish Medicaid reimbursement for fluoride varnish application services rendered by qualified providers in a physician office setting (*Louisiana Register*, Volume 37, Number 11). The department anticipates that coverage of this service will reduce and/or prevent future oral health problems that could have a negative effect on the overall health of children and may reduce the Medicaid cost associated with the treatment of such oral health conditions.

The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the general provisions and scope of services governing fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective January 15, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Professional Services Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 1. General Provisions
Chapter 9. Fluoride Varnish Application Services
§901. General Provisions

A. Effective for dates of service on or after December 1, 2011, the department shall provide Medicaid coverage of fluoride varnish application services to recipients from six months through five years of age.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§903. Scope of Services

A. Fluoride varnish application services performed in a physician office setting shall be reimbursed by the Medicaid Program when rendered by the appropriate professional services providers.

B. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§905. Provider Participation

A. The entity seeking reimbursement for fluoride varnish application services must be an enrolled Medicaid provider in the Professional Services Program. The following Medicaid enrolled providers may receive reimbursement for fluoride varnish applications:

1. physicians;
2. nurse practitioners; and
3. physician assistants.

B. The following providers who have been deemed as competent to perform the service by the certified physician may perform fluoride varnish application services in a physician office setting:

1. the appropriate dental providers;
2. physicians;
3. physician assistants;
4. nurse practitioners;
5. registered nurses; or
6. licensed practical nurses.

C. Professional service providers shall review the smiles for life training module for fluoride varnish and successfully pass the post assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter A. General Provisions
§15105. Fluoride Varnish Application Services

A. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall provide reimbursement for fluoride varnish application services rendered by qualified health care professionals in a physician office setting.

B. Reimbursement for fluoride varnish application services shall be a flat fee based on the appropriate HCPCS code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Kathy H. Kliebert
Secretary

1312#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Prohibition of Provider Steering of Medicaid Recipients
(LAC 50:I.Chapter 13)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:I.Chapter 13 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 administers the Medicaid Program which provides health care coverage to eligible recipients through Medicaid contracted managed care entities and/or through Medicaid fee-for-service.

The department hereby adopts provisions prohibiting Medicaid providers and contracted managed care entities from engaging in provider steering in order to ensure the integrity of Medicaid recipients' freedom of choice in choosing a particular health plan in which to enroll and, when eligible, the freedom of choice in deciding whether or not to receive care through Medicaid fee-for-service. This Emergency Rule will also establish criteria for the sanctioning of providers who engage in provider steering of Medicaid recipients.

This action is being taken to avoid federal sanctions from the Centers for Medicare and Medicaid Services (CMS) by ensuring the integrity of Medicaid recipients' freedom of choice in choosing a health care provider, and to ensure compliance with the federal regulations which apply to contract requirements contained in 42 CFR §438.6 and the protection of enrollee rights set forth in 42 CFR §438.100 et seq. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2013-2014.

Effective December 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions in the Medicaid Program governing the prohibition of provider steering of Medicaid recipients.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 13. Prohibition of Provider Steering

§1301. General Provisions

A. Definitions

Provider Steering—any conduct by a Medicaid contracted managed care entity or health plan, including shared savings plans and capitated plans, any health care provider enrolled therein, or any Medicaid-enrolled provider which is intended to recommend, or can be reasonably concluded to lead to a recommendation of, any specific or type of participating managed care health plan or the decision as to whether or not to enroll in managed care health plan or Medicaid fee-for-service (legacy Medicaid). This shall include, but is not limited to the practice of offering recipients incentives for selecting one managed care health plan over another such plan and the practice of assisting a recipient in any way (via utilization of fax, office telephone, computer in office, etc.) in the decision of, or enrolling into, a specific managed care health plan.

B. These provisions shall not restrict the ability of a provider to inform recipients of all health plans in which the provider participates, nor shall it restrict the ability of a provider to inform recipients of the benefits, services, and specialty care offered by the various plans in which the provider participates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§1303. Sanctions

A. In the event the department determines that any provider has steered a Medicaid recipient to enroll with a particular managed care health plan or to participate in Medicaid fee-for-service, the department may impose any of the following sanctions as applicable.

1. A provider may be immediately disenrolled from participation in the Medicaid Program and any managed care health plan may immediately terminate its provider services agreement with the provider.

2. If a provider has steered a Medicaid recipient to enroll in a particular managed care health plan, payments to the provider for services rendered to the Medicaid recipient for the time period the recipient's care was coordinated by the health plan may be recouped.

3. If a provider has steered a Medicaid recipient to participate in Medicaid fee-for-service, payments to the provider for services rendered to the recipient for the time period the recipient's care was paid for through Medicaid fee-for-service may be recouped.

4. A provider may be assessed a monetary sanction of up to $5,000 for each recipient steered to join a particular managed care health plan or to participate in Medicaid fee-for-service.

5. A provider may be required to submit a letter to the particular Medicaid recipient notifying him/her of the imposed sanction and his/her right to freely choose another participating managed care health plan or, if eligible, participate in Medicaid fee-for-service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert
Secretary

1312#001

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Rural Health Clinics
Fluoride Varnish Applications
(LAC 50:XI.16301 and 16701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.16301 and §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, Bureau of Health Services Financing amended the provisions governing rural health clinics (RHCs) to provide Medicaid reimbursement for diabetes self-management training services and to reorganize the existing provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 37, Number 9). The department promulgated an Emergency Rule which amended the September 20, 2011 Rule to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the provisions governing the scope of services for fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective January 15, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rural health clinics.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 15. Rural Health Clinics
Chapter 163. Services
§16301. Scope of Services

A. - B.1. ...

C. Effective December 1, 2011, the department shall provide coverage for fluoride varnish applications performed in the RHC. This service shall be limited to recipients from six months through five years of age. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

1. Fluoride varnish applications shall be reimbursed when performed in the RHC by:
   a. the appropriate dental providers;
   b. physicians;
   c. physician assistants;
   d. nurse practitioners;
   e. registered nurses; or
   f. licensed practical nurses.

2. All participating staff shall review the smiles for life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the RHC.

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 32:1904 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2631 (September 2011), LR 39:

Chapter 167. Reimbursement Methodology
§16701. Prospective Payment System

A. - B.3.a. …

4. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall include coverage for fluoride varnish applications in the RHC encounter rate.

a. Fluoride varnish applications shall only be reimbursed to the RHC when performed on the same date of service as an office visit or preventative screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - D. …

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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 39:

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

Kathy H. Kliebert
Secretary

1312#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

State Children's Health Insurance Program
LaCHIP Affordable Plan Benefits Administration
(LAC 50:III.20501, 20505 and 20507)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI 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 to implement phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the Federal Poverty Level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the statewide management organization in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan Program. Only the monthly premium per household shall apply. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective December 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the LaCHIP Affordable Plan in order to transfer the administration of these services to the BAYOU HEALTH Program and the Louisiana Behavioral Health Partnership.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 11. State Children's Health Insurance Program
Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V

§20501. General Provisions

A. …

B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§20505. Covered Services

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the Statewide Management Organization under the LBHP. The following services shall be included:

1. - 8. …

9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:

9.a. - 10. …

11. nursing care services;

a. Repealed.

12. …

13. inpatient substance abuse treatment services, including residential substance abuse treatment services:

a. Inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;

b. …

14. outpatient substance abuse treatment services:

a. All services must be pre-certified;

b. …

15. case management services;

a. Repealed.

16. - 16.a. …

17. hospice care:

a. Repealed.

18. medical transportation; and

a. Repealed.

19. …

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§20507. Cost Sharing

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. - 1.a. …

2. - 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Kathy H. Kliebert
Secretary

1312#072

Rules

RULE

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Structural Pest Control Commission

Wood Destroying Insect Report (WDIR) Requirements
(LAC 7:XXV.121)

Under the enabling authority of R.S. 3:3366 and R.S. 3:3370 and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.), the Department of Agriculture and Forestry has amended the referenced rules and regulations (action).

The action amends the Rule governing issuance of a wood destroying insect report (WDIR) to clearly reflect that a WDIR is a report that is issued for a specific purpose and that a WDIR cannot be extended or form the basis for a guarantee to repair damages caused by wood destroying insects.

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 1. Structural Pest Control Commission
§121. Wood Destroying Insect Report

A. A wood destroying insect report approved by the commission shall be issued only for inspections made to determine the presence of wood destroying insects for acts of sale or refinance of structures.

1. A wood destroying insect report shall not be renewable or issued for any other purposes, and shall not provide a guarantee to repair damage caused by wood destroying insects.

2. No licensee, pest control operator, or any person employed or supervised by a licensee or pest control operator, either before or after issuing a wood destroying insect report, shall represent, orally or in writing, to any customer or potential customer that if wood destroying insects are discovered more than 90 days after the date of the WDIR inspection the licensee or pest control operator will treat the property at no cost or repair any damage caused by the wood destroying insects.

B. - C. …

* * *

9. Additional comments shall not contain language that extends the time for treatment contained in the WDIR should termites be discovered, that provides for or incorporates documents that provide inspection guarantees, damage repair guarantees or treatment guarantees, or that amends, modifies, or deletes any terms and conditions of the WDIR. (If necessary, continue on reverse side.)

* * *

D. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3670.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:797 (May 2006), repromulgated LR 32:1017 (June 2006), amended LR 37:282 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 39:3238 (December 2013).

Mike Strain, DVM
Commissioner

1312#048

RULE

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

Animal Care Standards (LAC 7:XXI.Chapter 31)

Under the enabling authority of R.S. 3:2095.1 and in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) the Department of Agriculture and Forestry, Office of Animal Health and Safety, Board of Animal Health has adopted rules and regulations set out below.

R.S. 3:2095.1 mandates that the Board of Animal Health, subject to the approval of the commissioner of agriculture and forestry, adopt standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. These standards of care are necessary because the statute prohibits any municipality, parish, local governmental entity or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area from enacting any ordinances law, subdivision restriction or regulation that establish standards of care applicable to these categories of animals unless the ordinance, regulation or restriction has been reviewed by the board and approved by the commissioner. Review and approval cannot occur until these standards of care have been promulgated in accordance with the APA. The standards of care that are adopted have been approved by the commissioner.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 31. Standards of Care for Bovine, Equine, Ovine, Caprine, Porcine, and Poultry used for Show, Profit, or Production
§3101. Definitions

A. In addition to the definitions listed below, and unless otherwise provided, the definitions in §101 of this Part shall apply to this Chapter.

B. The terms defined in this Chapter have the meanings given to them in this Section, except where the context expressly indicates otherwise.

C. Terms Defined in this Section

Ambulatory—state of biological function where an animal is capable of walking without pain for an extended period of time.

Animal Care and Well-Being Plan—a program or method for providing or ensuring that an animal's basic needs are met to maintain their health, biological function, and physical and behavioral needs.

Animal Health—physical state of an animal.

Animal Husbandry—the branch of agriculture concerned with the care and breeding of domestic animals such as cattle, horses, pigs, and sheep.

Animal Husbandry Procedures—a way of performing or effecting the care and breeding of livestock.

Beef Quality Assurance Guidelines (BQA)—accepted production standards for quality and safety, including biosecurity, animal health and well-being, production performance and environmental stewardship, that are appropriate to an operation and which can be met or exceeded in an objective manner.

Behavioral Needs—a particular animal's need to express behaviors given their species, age, sex, and physiologic state.

Biosecurity—preventive measures designed to reduce the risk of transmission of infectious diseases, parasites and pests.

Body Condition—refers to the health or physical fitness of the animal.

Body Condition Score (BCS)—accepted management tool used by producers, veterinarians, extension personnel, and researchers to evaluate the nutritional level of livestock based on a numerical scale.

Conspecific Aggression—hostile actions or fighting among a group of animals of the same species.

Discomfort—unpleasant sensations other than pain caused by a disruption of normal biologic function or psychological needs.

Disease—pathologic condition of any part of an animal's biology.

Distress—state of mental or physical pain, intense anxiety, or suffering affecting the animal that may require immediate attention.

Electric Stunning—application of high amperage current passed through the brain which renders the animal instantly unconscious.

Electro-immobilization—use of electricity to immobilize and paralyze animals that does not render them unconscious or insensible to pain.

Euthanasia—intentional causing humane death of an animal in order to relieve pain and suffering.

Facility—premises or something such as a fenced in area or a structure or structures constructed to serve a function related to livestock.

Good Animal Health—having good biological function and being free of disease and injury.

Handling—actions involving hands on treatment of livestock such as loading or unloading, restraining, or moving animals in a pen or chute.

Health—normal biologic and physiologic function free of disease.

Heat or *Cold Stress*—external temperature and/or humidity causing change of an animal's physiologic function and/or causing distress.

Humane Death—when an animal dies with minimum pain and suffering that may result through utilization of methods such as inhalant agents, injectable euthanasia agents, or other physical methods.

Humane Treatment—care an animal receives with the intention and result of promoting animal health as balanced with considerations of human health, food safety, and animal production.

Injury—disruption of tissue causing pain or impaired function.

Insensible—unable to perceive any stimulus or having no cortical brain function.

Knowledge—having an awareness of scientifically valid facts regarding animal health and animal husbandry and the ability to apply these facts so as to ensure the care and well-being of animals.

LDAF—Louisiana Department of Agriculture and Forestry.

Livestock—bovine, equine, porcine, ovine, caprine, and poultry used for show, profit, selling, or producing crops, plant or animal products for market.

Livestock Personnel—producer or person in charge of animals.

Mass Euthanasia—putting to death populations of animals in unusual conditions such as wide spread disease eradication and circumstances resulting from natural disasters, as authorized by the state veterinarian.

Minimize Heat Stress—systems utilizing one or more of the following to reduce the negative impact on animals due to heat stress- shade, facility design to improve air flow and ambient temperature from outside temperature and airflow, fans or forced air movement, water cooling systems such as misters, evaporative cooling systems, and climate controlled air conditioning.

Minimize Pain and Distress—actions taken to reduce or eliminate those stimuli resulting in pain or distress.

National Chicken Council (NCC) Guidelines—industry standard program for assessment of animal programs and practices in broiler and broiler breeder operations.

Pain—unpleasant stimulus associated with actual or potential tissue damage that is perceived as unpleasant.

Parturition—act of giving birth (i.e. calving, foaling, lambing, farrowing).

Person in Charge—person who has animal(s) under his supervision or control.

Physiologic Requirements—conditions needed to maintain an animal's normal body function given their physical, metabolic, and hormonal demands.

Physiologic State—functioning of an animal's body, including its current body systems, metabolism, and homeostasis.

Practical—method or technology which is easily available and economically viable as determined by acceptable standards.

Producer—person who owns and is responsible for the care of livestock that are raised for home use or for profit, especially on a farm.

Rapid Loss of Consciousness—that which causes an animal to lose consciousness within 60 seconds.

Remedial Action—any action taken to provide care, nutrition, treatment, veterinary treatment, or other action in order to eliminate the cause of compromised animal health.

Shelter—physical object or construct that provides protection from weather and climate to a specific animal; *shelter* may include manmade constructions, variations in the topography of land, plants, trees, and shrubbery as conditions may require.

Stress—reaction by an animal to an uncomfortable or unfamiliar physical or psychological stimulus that may include an increased state of alertness, anxiety, increased heart rate, or sweating.

Sufficient—enough to meet the physiological needs of the animal (i.e. adequate nutrition to maintain an average BCS).

Supervision—act or having the responsibility to ensure an animal is provided care.

Timely Manner—soon enough that is not too late.

Veterinary Treatment—procedure or care performed by or on the order of a licensed veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3238 (December 2013).

§3103. General Standards that Apply to the Production of All Animals

A. Producer or person in charge of animals shall ensure that a sufficient level of animal health and animal care and well-being is maintained for the livestock.

1. Livestock personnel shall have the proper level of knowledge, ability, and competency to maintain the health and care and well-being of livestock as specified in this Code.

2. Livestock shall be inspected as determined by livestock personnel based on their age and physiologic state to ensure they remain healthy and to allow for timely remedial action for those livestock found to be diseased or distressed.

B. Exceptions

1. Any standard in this code may be excepted by or under the advice of a licensed veterinarian as required for the prevention, diagnosis, management, treatment, or control of disease or injury.

2. Any standard in this code may be excepted during a declared disaster, foreign animal disease outbreak, or other exceptional circumstance as deemed necessary by LDAF.

3. Any standards in this code may be excepted by LDAF as deemed necessary to promote animal health or care, human health, agriculture, food safety, or other compelling need of the people or resources of the state of Louisiana.

C. Housing

1. Shelter as defined in this document may be a necessary requirement for livestock. All facilities in which livestock are maintained shall be kept clean and ventilated so as to minimize injury or pain caused by noxious gases. All facilities in which livestock are maintained shall be constructed and maintained so as to minimize disease and injury to animals.

2. All facilities in which livestock are maintained shall be constructed and maintained so as to securely contain the livestock within.

3. Livestock shall be able to lie down and rest comfortably so as to meet their behavioral needs for rest.

4. For livestock housed in an indoor facility with concrete floor, dry bedding shall be provided for the comfort and warmth of the livestock.

D. Nutrition and Water

1. All livestock shall be provided sufficient food to maintain good health, meet their physiological requirements, and minimize nutritional or metabolic disease.

2. All livestock shall have access to water, including ponds, so as to maintain adequate hydration.

3. Nutritional standards for livestock may vary with level of activity, pregnancy/nursing status, age, or medical status; veterinary or nutritional consultation may be required to establish these standards.

4. Exception. Food and water may be temporarily withheld when handling, treating, or transporting livestock.

E. Health and Veterinary Care

1. All producers shall develop and implement an animal care and well-being plan to promote the health of the livestock.

2. Livestock shall be monitored regularly as determined by producers and livestock personnel so signs of injury or disease are identified in a timely fashion.

3. Producers shall treat signs of injury or disease in a timely manner to prevent or control compromised health of cattle.

a. Producers shall determine when a licensed veterinarian shall be consulted in the diagnosis, treatment, management, and prevention of injury or disease as necessary to minimize pain and distress of livestock.

4. Livestock other than dairy cattle with a body condition score less than three, and dairy cattle with a BCS less than two shall receive prompt care and/or treatment (see BCS charts below).

5. Livestock suffering from severe lameness shall receive prompt remedial action.

6. Livestock suffering from extreme pain or distress shall be examined by a licensed veterinarian or properly euthanized in a timely fashion as to minimize pain and distress.

7. Non-ambulatory livestock may be moved in the most effective manner deemed necessary by the producer or person in charge.

F. Parturition Management

1. Livestock observed to have vigorous straining and/or abdominal contractions while giving birth without progress shall have remedial action taken.

2. No motor vehicle shall be used to provide traction to assist parturition.

G. Sanitation

1. All facilities in which livestock are maintained shall be kept clean so as to minimize the spread of infectious disease to animals.

2. All facilities in which livestock are maintained shall have pest control so as to minimize the spread of infectious disease to animals.

3. All equipment used in managing livestock shall be kept clean so as to minimize the spread of infectious disease to livestock and to minimize pain.

4. All personnel shall maintain adequate biosecurity in facilities to minimize the spread of infectious disease to livestock.

H. Handling

1. Livestock shall be handled in a manner so as to minimize stress, risk of injury, and risk of exhaustion or heat stress to the livestock.

2. Only the minimum force necessary shall be used to move or restrain livestock.

3. Handling of livestock shall be performed with knowledge of the point of balance and flight zone when possible.

4. All facilities used to move or restrain livestock shall be designed and maintained so as to minimize stress, risk of injury, risk of exhaustion, risk of heat stress and shall allow livestock to be released rapidly if necessary.

5. Electric prodders shall not be used in the most sensitive areas of livestock: udder, eyes, nose, anus, prepuce, vulva, or testicles.

6. Livestock physically restrained in handling facilities shall be supervised at all times.

7. Electro-immobilization shall not be an acceptable handling technique for livestock.

I. Animal Husbandry Procedures

1. Certain animal husbandry procedures shall be performed only as necessary to protect animal and human health, allow animal management and production, and allow product attributes.

a. Necessary animal husbandry procedures include, but are not limited to: castration, disbudding, dehorning, branding, tattooing, and ear tagging.

2. Animal husbandry procedures shall only be performed by personnel with sufficient knowledge to minimize pain and distress.

3. Animal husbandry procedures shall be performed in a timely manner and physiologic state so as to minimize pain and distress.

J. Selection for Transport

1. Livestock transported for any reason shall be ambulatory at the time of loading.

2. Exception shall be when livestock need to be transported on-farm, farm-to-farm, or for veterinary care.

K. Transportation by land shall:

1. be loaded and unloaded in a manner and with proper equipment and personnel so as to minimize stress and injury. Have sufficient headroom so as to not come into contact with the roof of the vehicle in a normal standing position;

2. transportation vehicle shall:

a. have floors that are constructed and kept clean so as to minimize the slipping and falling of livestock; and Be constructed to allow visual inspection of all livestock during transport; and

b. be constructed to allow ventilation and protection in order to minimize the harmful effects of weather and climate;

3. livestock shall be segregated into groups based on age, size, and other attributes so as to minimize injury, distress, and conspecific aggression;

4. livestock shall be loaded at a density that minimizes injury and falling, but that allows animals to rise unassisted if fallen;

5. livestock shall be transported as quickly as possible to their final destination and transported to their final destination directly when possible;

6. pursuant to 49 USC § 80502, the transportation of livestock shall be planned so that animals are unloaded and provided rest, water, and feed on travel more than 28 hours.

L. On-Farm Euthanasia

1. Livestock shall be euthanized in a method that results in rapid loss of consciousness and animals must remain insensible until death. The following methods of euthanasia are approved for on farm use:

a. captive bolt or rifle shot of at least .22 caliber administered so as to disrupt the cerebral cortex and brainstem; and

b. barbiturate overdose administered by a licensed veterinarian or other licensed professional.

2. The carcass of any livestock euthanized shall be disposed of in a manner as to prevent the spread of infectious disease or if euthanized by barbiturate overdose to prevent other animal exposure to the carcass.

3. The carcasses of all livestock shall be disposed of in a sanitary manner by cremation or burial of at least 6 feet according to R.S. 3:2131.

M. Body condition scoring for livestock is intended to be used as a practical guideline by which producers can measure animal care and well-being based on the animal's physical appearance as determined in the charts below.

1. Body Condition Scoring for Livestock other than Dairy Cattle

Score	Description
1. Poor	Severely emaciated; no fatty tissue; vertebrae, ribs, tail head, and bones of withers, shoulder, and neck are visible All rib and bone structures easily visible. No fat over backbone, edge of loin, hip bones, or ribs. Tailhead and ribs project prominently. Animal has difficulty standing or walking.
2. Emaciated	Appears emaciated but tailhead and ribs are less prominent. Individual spinous processes are sharp to touch, but some tissue exists along the spine. Animal not weak, but no fat detectable.
3. Very Thin	Ribs are individually identifiable, but not sharply. No fat on ribs, brisket, spine or over tailhead. Individual hindquarter muscles easily visible, spinous processes apparent.
4. Thin	Individual ribs are not visibly apparent except the last two ribs. Backbone can be identified with slight pressure; individual spinous processes are rounded rather than sharp. Individual muscles in the hindquarter are apparent, but the quarter is straight.
5. Moderate	Good overall appearance. The last two ribs are not visible but can be easily felt. Hindquarter individual muscles are not apparent. Areas on either side of the tail head are filled and fat cover is palpable.
6. High Moderate	Good smooth appearance throughout. Ribs are not visible and are fully covered. Some fat deposition in the brisket. Spongy fat on ribs and pin bones and sides of tailhead. Firm pressure is needed to feel the spinous processes.
7. Good	Livestock appear fleshy and obviously carry considerable fat. Brisket is full. Tailhead and pin bones have protruding fat deposits. Back appears square.
8. Obese	Protruding fat deposits on tailhead and pin bones. Spinous processes almost impossible to feel. Brisket is distended and neck is thick.

Score	Description
9. Very Obese	The body has lost definition and contours disappear across back and sides as animal takes on a block-like smooth appearance. Tailhead and hips buried in fat deposits. Bony structures no longer visible or palpable.

2. Body Condition Scoring for Dairy Cattle

Score	Description
1. Emaciated	Deep cavity around tailhead. Bones of pelvis and short ribs are easily felt. No fatty tissue in pelvic or loin area. Deep depression in loins.
2. Thin	Shallow cavity around tailhead with some fatty tissue lining it and covering pin bones. Pelvis easily felt. Ends of short ribs feel rounded and upper surfaces can be felt with slight pressure. Depression viable in loin area.
3. Ideal	No cavity around tailhead and fatty tissue easily felt over entire area. Pelvis felt with slight pressure. Thick layer of tissue covering top of short ribs which is felt with pressure. Slight depression over loin area.
4. Fat	Fold of fatty tissue around tailhead with patches of fat covering pin bones. Short ribs cannot be felt. No depression in loin area.
5. Obese	Tailhead buried in thick layer of fatty tissue. Pelvic bones cannot be felt with firm pressure. Short ribs covered with thick layer of fatty tissue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3240 (December 2013).

§3105. Beef and Dairy Cattle Standards

A. Body Condition Scoring (BCS) of Cattle

1.a. *BCS*—a standardized, objective method of evaluating the body condition of cattle regardless of breed, age, gender, or body type.

b. *Body Condition*—a measure of fat cover and scores are indicative of energy reserves in the body.

2. Several conditions may affect *body condition*:

a. lack of proper nutrition;

b. severe parasitism;

c. infectious disease;

d. older animals.

3. Starvation shall not be ascertained by *body condition* alone but may be determined by amount of feed and forage available.

4. Consultation with a licensed veterinarian and or a knowledgeable livestock professional may be suitable in remedying the situation.

5. *Body condition* shall be evaluated by visual appraisal and by feeling six areas of the animal's body and then assigning an overall score.

6. Beef cattle scores range from one (severely emaciated) to nine (very obese).

7. Dairy cattle scores range from one (emaciated) to five (obese).

8. *BCS* below two for beef or dairy scoring indicate emaciated cattle.

B. BQA guidelines may be used as a standard reference for all cattle producers (beef and dairy) as a reference in areas of cattle management and record keeping.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3242 (December 2013).

§3107. Equine Standards

A. Housing

1. All facilities in which horses are maintained shall be kept free of excessive feces, urine, mud, or other waste products.

2. All facilities in which horses are maintained shall be constructed and maintained to minimize hazards that may cause injury to the horses confined within.

3. For horses housed in an indoor facility with concrete floor, dry bedding shall be provided for the comfort and warmth of the horses.

4. Horses confined to minimal enclosed areas shall receive sufficient turnout time or controlled exercise (e.g., hand-walking, lunging, riding, driving, hot walker, treadmill) unless directed otherwise by a veterinarian.

5. When housed in groups, horses shall be segregated so as to minimize conspecific aggression.

B. Nutrition

1. Concentrates, trace minerals, and salt may be used to balance the diet.

2. Horses confined without available pasture to graze may need daily supplemental feed; horses on pasture may need supplemental feed if the pasture is insufficient to maintain body weight and health.

C. Water

1. Water troughs, water containers, and any automatic watering devices shall be cleaned and maintained on a regular basis.

2. Transportation of Equine

a. The following horses shall not be transported:

i. those that are non-ambulatory (cannot walk unassisted), weak and/or debilitated, cannot bear weight on one or more legs, blind in both eyes, or, unless being transported for veterinary care;

ii. foals shall not be transported until their navels are closed unless being transported for veterinary care.

3. Transportation by land shall:

a. load horses at a density that minimizes injury and falling, but that allows them to rise unassisted if fallen;

b. horses destined for slaughter shall be transported pursuant to USDA's Slaughter Horse Transport Program in addition to the regulations above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3242 (December 2013).

§3109. Porcine Standards

A. Housing

1. If housed outdoors, shelter shall be readily available to swine so as to minimize the compromise to their health from heat and adverse weather.

2. If housed indoors, facilities shall be maintained so as to minimize the compromise to health from heat and adverse weather.

3. For any swine housed in a primary enclosure, such as a farrowing stall or gestation crate, the swine shall be able to:

a. lie in full recumbency without its head touching a feeder;

b. rise and lie down comfortably at will; and

c. stand so as to not touch more than one side of the enclosure simultaneously and so as to not touch the top of the primary enclosure.

4. Flooring shall be designed or managed so as to minimize slipping and so as to prevent urine scald to the swine.

5. If nursing piglets, the enclosure shall allow the sow to lie down as to minimize injury or death of her piglets.

B. Nutrition and Water

1. Feed shall be provided in methods so as to minimize aggression and resultant injury to swine.

2. Any mechanical devices used to deliver feed or water shall be kept clean so as to minimize the spread of infectious disease, and shall be regularly inspected to ensure proper function.

C. Animal Husbandry Procedures

1. Animal husbandry procedures include, but are not limited to:

a. castration, needle teeth clipping, tail docking, ear notching, tattooing, and ear tagging;

b. shall be performed only as necessary to protect animal and human health;

c. allow animal management and production; and

d. allow product attributes.

2. Animal husbandry procedures shall be performed in a timely manner and physiologic state so as to minimize pain and distress including:

a. clipping of needle teeth performed before five days of age;

b. teeth clipped at the tip of the tooth rather than the gum line;

c. ear notching, tail docking, and castration performed before five days of age.

D. Farrowing and Piglet Management

1. Temperature control shall be provided in order to allow newborn pigs to maintain normal body temperature.

E. Specific Recommendations on All Aspects of Swine Production

1. Producers shall consult the current *Swine Care Handbook* published by the National Pork Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3242 (December 2013).

§3111. Ovine and Caprine (Small Ruminants) Standards

A. Housing

1. Shelter shall be readily available to small ruminants so as to minimize the compromise to their health from heat or adverse weather.

B. Health and Veterinary Care

1. Management procedures shall be in place to minimize the distress or disease caused by *Haemonchus contortus*.

2. Management procedures shall be in place to minimize fly strike.

3. Small ruminants with a body condition score of or less than three shall receive prompt care and/or treatment by or on the advice of a licensed veterinarian to improve their body condition.

C. Parturition and Lamb/Kid Management

1. All lambs or kids shall receive adequate nutrition from a lactating ewe or doe or shall be provided adequate nutrition by hand rearing if rejected, or have other remedial action taken.

D. Shearing

1. Shearing shall be performed carefully so as to minimize distress and injury to the small ruminant.

E. Animal Husbandry Procedures

1. Animal husbandry procedures include, but are not limited to:

a. castration;

b. disbudding;

c. dehorning;

d. foot trimming;

e. injections;

f. drenching;

g. shearing;

h. tail docking of wool sheep;

i. tattooing; and

j. ear tagging.

F. Selection for Transport

1. The following small ruminants are not fit for transport:

a. those unable to bear weight, unless transported for veterinary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3243 (December 2013).

§3113. Poultry Standards

A. Housing and Environment

1. Any facilities in which poultry are housed shall provide shelter so as to minimize the compromise to poultry health from heat, cold, adverse weather, and predation.

2. All (commercial) facilities in which poultry are housed shall be maintained so as to limit the exposure of feeding and watering devices and poultry to feces and urine.

3. All facilities in which poultry are maintained shall be designed, lighted, and stocked so as to allow visual inspections of poultry at any point in time.

4. Natural or artificial lighting mimicking the intensity and duration of daylight shall be provided, or other artificial lighting program exceeding this shall be provided, except as necessary for animal husbandry practices or introduction of new poultry. Any change in artificial lighting program shall be introduced gradually so as to prevent distress of poultry.

5. Stocking density shall follow NCC guidelines of pounds per square foot for commercial enterprises and for backyard flocks and shall not exceed that which does not allow all poultry to lie down simultaneously without being forced to lie on top of other poultry. Environmental moisture and dust shall be minimized in order to prevent the spread of infectious disease or compromise the health, care, and well-being of poultry.

6. Environmental temperature shall be controlled at a level that minimizes heat stress or cold stress to the poultry.

7. The following are acceptable housing systems.

a. Cages (Conventional and Enriched)

i. Cages shall be arranged so as to protect exposure of poultry in one cage from feces or urine from poultry in any other cage.

ii. Maximum slope for any cage shall be designed to support forward facing claws.

b. Barns/Aviaries

i. Flooring shall be such that minimizes claw injuries to birds.

ii. Flooring shall be designed so as to support forward facing claws.

iii. Perches shall be designed so as to minimize injury to the poultry.

c. Free Range

i. For those facilities with an indoor and outdoor component, openings shall be designed so as to facilitate movement of the poultry in a manner that minimizes injury and death to the poultry.

B. Nutrition and Water

1. All poultry shall be provided sufficient food daily so as to maintain good health, meet their physiological requirements, and minimize nutritional or metabolic disease (see exceptions).

2. All poultry shall have continual access to water so as to maintain adequate hydration (see exceptions).

3. All food and water shall be provided in means that minimize aggression or competition.

4. Any mechanical devices used to deliver feed or water shall be kept clean so as to minimize the spread of infectious disease and shall be regularly inspected to ensure proper function.

5. Poultry shall be regularly monitored, and those found not to be consuming adequate food or water shall be removed and either raised alternatively or euthanized.

6. Exception. Food and water may be temporarily withheld up to 48 hours as prescribed by the NCC, allowing for five days feed, and two skipped days, along with limitation of water when handling, performing management practices, treating, transporting, or depopulating poultry.

C. Health and Veterinary Care

1. Disabled poultry shall be removed from their environment in a timely fashion to minimize compromise to their health and have remedial action taken, including euthanasia.

2. Any dead poultry shall be removed from any facilities and disposed of according to LDAF protocols so as to minimize the spread of infectious disease between poultry and so as to minimize pests.

D. Handling

1. Poultry shall be caught and handled so as to minimize stress, risk of injury, and risk of exhaustion.

a. Poultry shall never be picked up by a single wing.

2. Only the minimum force necessary shall be used to move or restrain poultry.

3. All equipment used to move or restrain poultry shall be designed and maintained so as to minimize stress, risk of injury, risk of exhaustion, risk of heat stress.

4. Poultry that are seriously injured during handling (such as, but not limited to, broken legs) shall have remedial action taken, including euthanasia.

E. Hatching, and Chick/Poult Management

1. All chicks/poults shall have access to adequate nutrition and water within 48 hours of hatching or have other remedial action taken.

2. Environmental temperature control and air flow control shall be present before arrival of new chicks/poults into an area and maintained for newly placed chicks/poults so as to support normal body temperature and minimize health compromise.

F. Animal Husbandry Procedures

1. Certain animal husbandry procedures include, but are not limited to, beak trimming, male claw removal, and dubbing.

a. Animal husbandry procedures shall be performed at an age and physiologic state so as to minimize pain and distress.

i. Beak trimming shall be performed by or before 10 days of age.

ii. Male claw removal and dubbing (in commercial operations) shall be performed by or before 3 days of age.

b. Necessary stressful procedures include induced molting.

i. Induced molting shall be performed and birds sufficiently supervised to prevent health compromise, weight loss, and flock mortality.

G. Transportation

1. Transportation by land shall:

a. have stocking density that allows all poultry to lie down simultaneously without being forced to lie on top of other poultry;

b. have transportation vehicle design, maintenance, arrangement of poultry, and time of transport to minimize injury, distress, or death to the poultry;

c. have vehicle transporting poultry designed to provide adequate ventilation to minimize injury, distress, heat or cold stress, or death to the poultry;

d. have crates or other devices used to transport poultry designed to minimize injury and movement must allow poultry to rapidly reposition in an upright position.

H. On-Farm Euthanasia

1. The following methods of euthanasia shall be approved for on-farm use:

a. carbon dioxide;

b. cervical dislocation;

c. cecapitation;

d. water based foam for mass euthanasia;

e. instantaneous fragmentation may be used for one day old chicks and poults, and for pipped and embyonated eggs. Sufficient flow to and through the instantaneous fragmentation device shall prevent backlog at the point of entry to the device;

f. barbiturate overdose is an acceptable form of euthanasia administered by a licensed veterinarian or other licensed professional.

2. The carcasses of all poultry shall be disposed of in a sanitary manner by cremation or burial of at least six feet according to RS 3:2131 or by following LAC 7:XXI.Chapter 7, Sanitary Disposal of Dead Poultry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3243 (December 2013).

§3115. Emergency Standards

A. Standards for management and destruction of animals during an emergency may be extended during a declared disaster or animal disease event. In such cases mass euthanasia may be necessary.

1. Mass euthanasia shall be used for unusual conditions which require depopulation, such as wide-spread disease eradication and exigent circumstance resulting from natural disasters; the state veterinarian may authorize alternate methods if necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3245 (December 2013).

§3117. Accepted Methods for Mass Euthanasia

A. Inhalant Agents

1. Carbon Dioxide (CO_2)

a. Compressed CO_2 gas in cylinders shall be the only allowed source of carbon dioxide.

b. Gas concentration shall be maintained for at least one minute after death.

c. CO_2 shall be the only chemical to be used for euthanasia of animals intended for human or animal consumption.

B. Injectable Euthanasia Agents

1. All injectable agents, including all barbiturate derivatives, shall be used by or under the direct supervision of a licensed veterinarian.

C. Physical Methods

1. Penetrating Captive Bolt

a. Captive bolt guns shall be powered by gunpowder or compressed air and shall provide sufficient energy to penetrate the skull of the species on which they are being used.

b. Penetrating captive bolt shall be suitably placed so that the projectile sufficiently disrupts a cerebral hemisphere and the brain stem causing a sudden loss of consciousness and resulting in humane death.

c. The penetrating captive bolt gun shall be held firmly against the head.

d. All manufacturers' directions regarding caliber and powerload shall be followed.

2. Non-Penetrating Captive Bolt

a. The non-penetrating captive bolt does not have a projectile, is powered by gunpowder or compressed air, and shall deliver a percussive blow which produces unconsciousness.

b. The non-penetrating captive bolt gun shall be held firmly against the head and shall not be used as a sole means of euthanasia, except for animals weighing equal to or less than 12 pounds and poultry.

c. All manufacturers' directions regarding caliber and powerload shall be followed.

3. Blunt Force Trauma

a. A single decisive blow shall produce immediate depression of the central nervous system and destruction of brain tissue resulting in rapid unconsciousness and humane death.

4. Gunshot

a. Shooting shall only be performed by personnel proficient in the use of firearms and only in jurisdictions that allow legal firearm use. Personnel, the public, and nearby animal safety and well-being shall be considered as well as control of the animal whenever feasible.

b. Gunshot shall utilize bullets of suitable caliber that depend on the size of the animal to be euthanized and that expand on impact. The projectile shall enter the brain causing instant loss of consciousness and humane death.

c. Ammunition for most animals shall be a minimum caliber .22 hollow point for long rifles. For large mature animals, such as cattle and swine, the minimum caliber shall be .22 magnum hollow point for long rifles.

d. The gun shall be held as close as reasonably possible but not less than 2 inches from the head of the animal.

5. *Cervical Dislocation*—the manual stretching or instrument assisted separation of the cervical vertebrae from the skull.

6. *Decapitation*—the rapid separation of the head from the neck.

7. Electrocution

a. One-step electrocution shall use alternating current applied to the head and the opposite side of the body behind the heart at the flank skin fold, causing simultaneous stunning and inducing cardiac fibrillation resulting in cerebral hypoxia.

b. Two-step stunning and electrocution shall first render the animal unconscious by passing an alternating current across the head and followed immediately, in less than 15 seconds, by passing the current from the head to the opposite side of the body behind the heart.

8. *Foam*—a water-based product utilizing a specialized delivery system that produces *foam* of the appropriate consistency to occlude the upper respiratory tract causing hypoxia in a rapid and humane manner.

9. *Maceration*—the use of a mechanical apparatus having rotating blades or projections that causes immediate fragmentation and death.

10. *Exsanguination*—to drain of blood as a stand-alone method of euthanasia shall be limited to use for ritual slaughter pursuant to ORC, chapter 945.01 and 945.02. *Exsanguination* may be used to ensure death subsequent to stunning or in otherwise unconscious animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3245 (December 2013).

Mike Strain, DVM
Commissioner

1312#049

RULE

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

TB Testing of Mexican Cattle
(LAC 7:XXI.101 and 341)

Under the enabling authority of R.S. 3:2093 and 3:2135 and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.) the Department of Agriculture and Forestry, Board of Animal Health has amended and adopted the rules and regulations (the action) for testing Mexican cattle for tuberculosis.

The action is being taken because Louisiana is a bovine tuberculosis-free state. As a result, Louisiana cattle may move freely in interstate commerce, sell for a better price, and are not subject to quarantine and restrictions that would apply if Louisiana were not a tuberculosis-free state. Recently, tuberculosis has been found in rodeo stock in other states. Investigations have revealed that the source appears to be cattle from Mexico imported into the United States. The action is necessary to prevent the introduction and spread of bovine tuberculosis into this state, protect Louisiana's cattle industry, and to maintain the state's tuberculosis-free status.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 1. General Provisions

§101. Definitions

* * *

Bovine Tuberculosis—a disease in cattle, bison, or dairy goats caused by *Mycobacterium bovis*.

* * *

Mexican Cattle—cattle that were born in Mexico or have been in Mexico at some time in their lives

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:1170 (June 2002), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2336 (November 2008), LR 35:1465 (August 2009), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3246 (December 2013).

Chapter 3. Cattle

§341. Tuberculosis Testing of Mexican Cattle; Documentation

A. Mexican cattle which are used, or intended to be used, at rodeos, timed events, team events, or other similar events or as roping stock.

1. Mexican cattle in this category entering Louisiana from another state shall be accompanied by the following documents:

a. a certificate of veterinary inspection (CVI) that includes, in legible marking:

i. an official identification eartag (840 RFID tag or metal brite tag); and

ii. an official entry permit number issued by the department;

b. proof of a negative test for bovine tuberculosis taken within 60 days prior to the cattle entering the state;

c. the original or a certified copy of the tuberculosis test chart.

2. Mexican cattle in this category entering Louisiana directly from Mexico shall be accompanied by the documents listed in Paragraph A.1 of this Section and shall:

a. enter into quarantine at the first destination premises in the state;

b. test negative for tuberculosis within 60-120 days of arrival in this state, with all testing to be at the expense of the owner of the cattle;

c. not move from quarantine except with specific permission from the department and then only to events or activities where commingling with other cattle will not occur until confirmation of a negative post entry re-test for tuberculosis is obtained.

B. Mexican cattle that are under 18 months of age and which are brought into this state, either from another state or directly from Mexico, for grazing purposes prior to shipment to a feedlot or to slaughter shall be:

1. accompanied by a certificate of veterinary inspection (CVI);

2. moved under permit from the department only to a pasture or pen which has fencing sturdy enough to contain the cattle and to prevent co-mingling with other cattle and which pasture or pen has been approved by the department; and

3. subsequently moved from the pasture or pen only to a feedlot prior to going directly to slaughter or to a stockyard for sale for slaughter only.

C. At any time Mexican cattle enter the state and any time they are in the state, the latest tuberculosis test chart shall be, upon request, presented for inspection to a duly authorized officer, employee, or agent of the department or APHIS.

D. All Mexican cattle permanently located in this state shall be retested annually for tuberculosis at the expense of their owner.

E. All tuberculosis tests shall be conducted by a USDA accredited veterinarian, the test records shall be maintained with the cattle and, upon request, presented for inspection to a duly authorized officer, employee, or agent of the department or APHIS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3246 (December 2013).

Mike Strain, DVM
Commissioner

1312#047

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Tuberculosis Testing in Cervids (LAC 7:XXI.1515)

Under the enabling authority of R.S. 3:3101 and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.) the Department of Agriculture and Forestry has amended the rule(s) and regulation(s) ("the action") set out below.

The current regulation limits the test for tuberculosis in cervids to the tuberculin skin test provided for in the United States Department of Agriculture's *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*. Advancements in veterinary medicine have allowed the development of a serological or blood test for tuberculosis in cervids. The action provides owners of alternative livestock and treating veterinarians the opportunity to use USDA-approved serological tests for tuberculosis in cervids.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer
§1515. Health Certificates and Health Requirements

A. - A.3. …

4. have written proof of a negative tuberculin skin test or a serological test for tuberculosis that meets the following requirements;

a. the tuberculin skin test or serological test for tuberculosis is one of the official tuberculosis tests approved by the U.S. Department of Agriculture for use on the species of alternative livestock for which permission to enter the state is being sought;

b. the test was administered and read in accordance with the USDA requirements for the administering and reading of that test;

A.5 - F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 39:3247 (December 2013).

Mike Strain, DVM
Commissioner

1312#046

RULE

Department of Children and Family Services
Division of Programs

Risk Assessment Evaluation
(LAC 67:I.301, 303, 305, 307, and 309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:I, Subpart 1, General Administration, Chapter 3, Risk Assessment Evaluation.

Chapter 3 was amended in accordance with Act 814 of the 2012 Regular Legislative Session and R.S. 15.1110.2. The amendments include adding an owner, operator, current or prospective employee, or volunteer of juvenile detention facilities licensed by the department as individuals entitled to request risk assessment evaluation. In addition, the Chapter has been amended to add procedures and conditions of employment for current department employees and update risk evaluation panel membership consistent with current job titles and responsibilities.

Title 67
SOCIAL SERVICES
Part I. Office of the Secretary
Subpart I. General Administration
Chapter 3. Risk Assessment Evaluation
§301. Introduction

A. The Department of Children and Family Services (DCFS) maintains a central registry of all justified (valid) reported cases of child abuse and neglect.

B. - B.2. ...

C. Any current employee/volunteer 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 who discloses that their name was recorded subsequent to January 1, 2010 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 DCFS 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 department, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the employee 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. 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 department who has not disclosed that they have a justified finding on the state central registry until a ruling by the DCFS Appeals Unit that they do not pose a risk to children. Supervision may end effective with such a ruling from the Appeals Unit. If the Appeals Unit upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be terminated immediately.

D. In accordance with R.S. 46:1414.1(D) and 15:1110.2, any owner, operator, current or prospective employee, or volunteer of a child care facility or juvenile detention 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), amended by the Department of Children and Family Services, Division of Programs, LR 39:3247 (December 2013).

§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. Members of the panel shall include:

a. child welfare manager 2 for Field Operations;

b. child welfare manager 2 for In Home Services;

c. child welfare manager 2 for Out of Home Services;

d. Risk Evaluation Panel coordinator;

e. for panel reviews relating to owners, operators, current or prospective employees, or volunteers of child care facilities and juvenile detention facilities, program manager 2 for Licensing; and

f. any others designated by the DCFS deputy secretaries for the Division of Programs and Division of Field Operations as appropriate designees of those listed above or as deemed necessary to convene an appropriate panel.

C. - C.3. ...

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), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013).

§305. Risk Assessment Evaluation Process

A. - C.3. ...

D. The prospective or current employee must submit the information within 10 days of the request for a risk evaluation by mailing to:

Louisiana Department of Children and Family Services
Attention: Risk Evaluation Panel
627 North 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), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013).

§307. Risk Determination Criteria

A. ...

B. The panel shall determine if an individual poses a risk to children based on the information available in the DCFS case record, and any supplemental information provided by the prospective or current 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 likelihood 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 determined justified 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 to indicate a pattern of behavior;

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 justified incident of abuse or neglect; and

g. letters of recommendation one of which must be from a former employer whenever possible.

C. ...

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), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013).

§309. Appeals Process

A. - B. ...

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 DCFS Appeals Unit. If the request for an administrative appeal is made by a current or prospective owner, employee or volunteer of a child care facility or juvenile detention facility, within 30 days of the mailing of the notice of the determination, that request shall be sent by the Appeals Unit to the Division of Administrative Law.

D. All decisions rendered by the administrative law judge within the Appeals Unit or the Division of Administrative Law 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 Appeals Unit or the Division of Administrative Law, 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), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013).

Suzy Sonnier
Secretary

1312#058

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.107, 301, 519,
523, 2301, 2303, 2503, 2509, and 2709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools:* §107. Types of Charter Schools, §301. Charter School Authorizers, §519. Local School Board Consideration of Charter Application, Awarding of Charters, §523. Charter School Replication, §2301. State Funding, §2303. Federal Funding, §2503. Budgeting, §2509. Assets, §2709. Enrollment of Students, Lottery, and Waitlist. This policy implements Act 330 of the 2013 Regular Legislative Session, related to the transfer of schools from the Recovery School District back to local school boards. Pursuant to Act 330, the policy defines Type 3B charter schools as former Type 5 charter schools that have transferred from the RSD back to the local school board as Type 3B charter schools. Type 3B charter schools have the option to retain independent LEA status.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§107. Types of Charter Schools

A. A Type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A Type 1B charter school is a new school or a preexisting public school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local charter authorizer.

C. A Type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the State Board of Elementary and Secondary Education.

D. A Type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.

E. A Type 3B charter school is a former Type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

F. A Type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the State Board of Elementary and Secondary Education.

G. A Type 5 charter school is a preexisting public school transferred to the recovery school district as a school determined to be failing pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the State Board of Elementary and Secondary Education.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 39:3249 (December 2013).

Chapter 3. Charter School Application and Approval Process

§301. Charter School Authorizers

A. The state Board of Elementary and Secondary Education authorizes the operation of type 2, type 4, and type 5 charter schools.

B. Local school boards authorize the operation of type 1, type 3, and type 3B charter schools.

C. Local charter authorizers authorize the operation of type 1B charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 39:473 (March 2013), LR 39:3249 (December 2013).

Chapter 5. Charter School Application and Approval Process

§519. Local School Board Consideration of Charter Application, Awarding of Charters

A. Local school boards shall carefully review each Type 1 and Type 3 charter school application they receive and may approve a charter application only after it has made a specific determination whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911.

B. Local school boards may approve requests to establish a Type 3B charter school pursuant to the process outlined in Bulletin 129, §505.

1. A Type 3B charter school is a former Type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local

school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

2. A Type 3B charter school shall retain its Type 5 academic accountability history, including, but not limited to prior school performance scores. The performance of a Type 3B charter school shall be included in the local school district's District Performance Score.

3. Throughout initial and all subsequent renewal charter terms, the Type 3B charter contract shall:

a. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer;

b. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

c. prohibit the charter school from establishing admissions requirements; and

d. require any school that participated as a Type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to Type 5 charter schools participating in the enrollment system and expulsion process; and

ii. continue to provide transportation services for students who reside more than one mile away from the school.

4. In determining the length of the initial term for the Type 3B charter school upon transfer, the local school board shall either:

a. set the length of the initial charter term to match the number of years remaining on the charter school's former Type 5 charter contract; or

b. set the length of the initial charter term to be three or more years, not to exceed the number of years the charter school would be granted under the "Maximum Charter Renewal Terms" contained in Section 1503 of this Bulletin.

5. If granted a renewal, in determining the length of the term for the first renewal of the Type 3B charter contract, the local school board shall set the length of the renewal term to be three or more years, not to exceed the number of years the charter school would be granted under the "Maximum Charter Renewal Terms" contained in Section 1503 of this Bulletin. Differing academic performance standards for the first renewal of the charter contract must be approved by BESE. Subsequent renewal term lengths shall be determined by the local school board.

6. At the time of transfer, the Type 3B charter school shall have the option to remain its own local educational agency or have the local school system serve as the charter school's local education agency. The charter school may subsequently change its LEA status, subject to approval by the local school board and LDE.

a. A Type 3B charter school acting as its own local education agency shall comply with the same financial, programmatic, and reporting requirements applicable to other charter school LEAs.

b. The State Superintendent may rescind the local education agency status of a Type 3B charter school should the charter school fail to meet these requirements, pursuant to a process outlined in the annual Financial Risk Assessment administered by the Department. Upon rescission, the local school board shall serve as the LEA for the Type 3B charter school as long as the local school board continues to authorize the charter school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 37:2385 (August 2011), amended LR 39:3249 (December 2013).

§523. Charter School Replication

A. - A.4. ...

5. The type of charter schools the charter operator may open shall be determined as follows:

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 1	• Type 1; • May be a Type 3 subject to the permission of the school board
Type 1B	• Type 1B
Type 2	• New Type 2; • May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; • May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school
Type 3	• Type 1; • May be a Type 3 subject to the permission of the school board
Type 3B	• Type 3B, subject to the charter operator's ability to provide a facility or enter into an agreement with the local school board for use of a school board facility
Type 4	• Type 4
Type 5	• Type 2; • May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; • May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school

A.6. - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:3250 (December 2013).

Chapter 23. Charter School Funding

§2301. State Funding

A. The per pupil amount provided to a Type 1, 2, 3, 3B or 4 charter school shall be computed at least annually and shall be equal to no less than the per pupil amount received

by the school district in which the charter school is located from the following, except as provided in Paragraph E of this section.

B. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

C. For the purposes of funding, each Type 1, Type 3, and Type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement and shall receive a per pupil amount each year from the local school board based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

D. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

E. A school district with one or more Type 3B charter schools shall distribute Minimum Foundation Program formula funds to each Type 1, 3, 3B, and 4 charter school using the weighted allocations provided for in the most recently adopted Minimum Foundation Program formula.

1. A parish that contains a municipality with a population of three hundred thousand or more persons according to the latest federal decennial census shall use the allocation method provided for in this Paragraph no earlier than the 2018-2019 fiscal year for all Type 1 and Type 3 charter schools authorized by the school board and in operation prior to the 2013-2014 school year.

2. For all other Type 1, 3, and 4 charter schools in such a parish, the school board may request the use of a differentiated distribution methodology to be approved by the LDE.

F. Type 2 charter schools approved prior to July 1, 2008 shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to Type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year. Type 2 charter schools authorized by the State Board of Elementary and Secondary Education after July 1, 2008, shall receive a per pupil amount each year as provided in the Minimum Foundation Program approved formula.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any Type 2 charter school that has had an increase or decrease in student enrollment of 5 percent or less in any school year for which the February membership count occurs.

G. A charter authority may annually charge each charter school it authorizes a fee in an amount equal to two percent of the per pupil allocation that is received by a charter school for administrative overhead costs incurred by the chartering authority for considering the charter application and any amendment thereto, providing monitoring and oversight of the school, collecting and analyzing data of the school, and for reporting on school performance. Such fee amount shall be withheld from the per pupil amount in monthly increments and shall not be applicable to any federal money or grants received by the school. Administrative overhead costs shall not include any cost incurred by the charter authority to provide purchased services to the charter school.

1. At least 30 days prior to the beginning of each fiscal year, each charter school shall be provided by its chartering authority with a projected budget detailing anticipated administrative overhead costs and planned uses for fees charged for such costs.

2. By no later than 90 days following the end of each fiscal year, each charter school shall be provided by its chartering authority or the Recovery School District, if applicable, an itemized accounting of the actual cost of each purchased service provided to the charter school.

3. The state Department of Education may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to one quarter of one percent of the fee amount charged to a Type 3B charter school for administrative costs incurred by the department for providing financial oversight and monitoring of a Type 3B charter school acting as its own LEA.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013).

§2303. Federal Funding

A. Any Type 1B, 2, or Type 5 charter school shall be considered the local education agency for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. A Type 3B charter school shall have the option to remain its own local education agency or have the local school board serve as the charter school's local education agency, pursuant to §519 of this Bulletin.

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds or special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013).

Charter 25. Charter School Fiscal Responsibilities

§2503. Budgeting

A. - B. ...

C. Type 4 charter operators shall annually submit a budget to the Superintendent of Education in accordance with the provisions of R.S. 17:88. Each Type 2 charter school, Type 5 charter school, and each Type 3B charter school acting as its own LEA shall annually submit its budget directly to the superintendent of education in accordance with deadlines established by the department.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3252 (December 2013).

§2509. Assets

A. Any assets acquired by a Type 2, Type 3B, or Type 5 charter operator are the property of the charter school for the duration of the charter school's charter. Any assets acquired by a Type 4 charter school are the property of the local school board.

B. For a Type 5 charter school transferring to the local school board as a Type 3B charter school, all property of the Type 5 charter school shall remain property of the charter operator upon transfer to the local school board. Property belonging to the RSD used by the Type 5 charter operator may be transferred to the ownership of the charter operator or the local school board, in accordance with state and federal law, BESE policy, auditing rules, and grant guidelines.

C. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

D. If a charter operator's charter is revoked or the school otherwise ceases to operate, all assets purchased with any public funds shall become the property of BESE, or the local school board, in the case of Type 3B charter schools. All assets purchased with private funds shall remain the property of the charter operator, if the inventory or records of the charter operator demonstrate that the assets were purchased with private funds.

E. If a charter operator fails to open a charter school and serve pupils or if the school closes for any reason, the charter school shall refund all cash on hand which can be attributed to state or local funding to the state or to BESE, or the local school board, in the case of Type 3B charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 39:3252 (December 2013).

Chapter 27. Charter School Recruitment and Enrollment

§2709. Enrollment of Students, Lottery, and Waitlist

A. - I. ...

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and Type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.

J.1. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), amended LR 39:1437 (June 2013), LR 39:3252 (December 2013).

Heather Cope
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.502 and 505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District:* §502, Parent Petitions and §505, Return of Schools to LEA. The policy implements Act 275 and Act 330 of the 2013 Regular Legislative Session, related to the transfer of schools from the Recovery School District back to local school boards. Pursuant to Act 275, the policy provides for a parent petition process whereby certain RSD direct-operated schools may be transferred back to the local school board under certain conditions. Pursuant to Act 330, the policy provides for a process whereby eligible type 5 charter schools may transfer back to the local school board as type 3B charter schools, and have the option to retain independent LEA status.

Title 28
EDUCATION

Part CXLV. Bulletin 129—The Recovery School District

Chapter 5. Failed Schools

§502. Parent Petitions

A. Pursuant to R.S. 17:10.5, a public school that has received a letter grade of “D” or “F,” or any variation thereof, for three consecutive years shall be removed from the jurisdiction of the city, parish, or local public school board, or other public entity and transferred to the jurisdiction of the recovery school district (RSD) if parents or legal guardians representing at least a majority of the students attending the school sign a petition requesting that the school be transferred to the RSD, and such transfer is approved by the state Board of Elementary and Secondary Education, in accordance with the requirements and procedures below. The effective date of transfer to the RSD shall be July 1 following the approval of such transfer.

B. Pursuant to R.S. 17:10.5, a public school directly operated by the RSD that has received a letter grade of “D” or “F,” or any variation thereof, for five consecutive years,

and has not been identified for conversion to a charter school pursuant to a charter contract between BESE and a nonprofit charter organization, shall be transferred from the jurisdiction of the RSD to the jurisdiction of the local school board it was transferred from if parents or legal guardians representing at least a majority of the students who have been enrolled in the school for at least two years sign a petition requesting that the school be transferred to the local school board, and such transfer is approved by the state Board of Elementary and Secondary Education and respective local school board, in accordance with the requirements and procedures below. The effective date of transfer shall be July 1 following the approval of such transfer.

C. Eligibility and Notification

1. The department shall make available on the LDE website information related to parent petitions, including, but not limited to, a list of schools eligible for the parent petition process, parent petition samples or forms, procedures and deadlines for completing and submitting parent petitions, and notification of receipt of parent petitions by the department.

2. On an annual basis, after completion of each year's state accountability assessment cycle, the department shall release a list of schools for which the department will accept parent petitions for that year's parent petition cycle.

a. Transfer to the RSD. A school eligible for transfer to the RSD pursuant to the parent petition process is any public school that is currently not under the jurisdiction of the RSD, nor under a memorandum of understanding with the RSD, and has received a letter grade of "D" or "F," or any variation thereof, for three or more consecutive years.

b. Transfer to the Local School Board. A school eligible for transfer to the local school board is any public school directly operated by the RSD that has not been identified for conversion to a charter school pursuant to a charter contract between the state Board of Elementary and Secondary Education and a nonprofit charter organization, and has received a letter grade of "D" or "F," or any variation thereof, for five consecutive years.

c. For the purposes of this Section:

i. a 2009 or 2010 baseline school performance score (SPS) of 60.0 to 79.9 will equate to a "D" letter grade;

ii. a 2009 or 2010 baseline school performance score (SPS) below 60.0 will equate to an "F" letter grade.

3. With the release of the list of eligible schools, the department shall release a standard parent petition and may provide an estimate of the minimum number of parent or legal guardian signatures required for each eligible school. The estimated minimum number of required parent or legal guardian signatures shall be based on the official student enrollment count from October 1 of the previous school year. In cases where there has been a significant change in the number of students attending the school since that time, for example, due to a change in grade configuration at the school, the estimate shall reflect these changes. The final minimum number of required parent or legal guardian signatures will be based on the official student enrollment count from October 1 of the current school year.

a. For schools transferring to RSD, the minimum number of required parent or legal guardian signatures will be 50 percent plus one signature of the total number of students attending the school.

b. For schools transferring to the local school board, the minimum required parent or legal guardian signatures will be 50 percent plus one signature of the number of students who have been enrolled in the school for at least two consecutive years.

D. Completing Parent Petitions

1. The standard parent petition released by the department shall be used to complete parent petitions for eligible schools. No other form or type of parent petition will be accepted by the department. Signatures may not be collected prior to the date of the annual release of the list of eligible schools by the department.

2. Parent petitions may only be signed by a parent or legal guardian of a student currently attending the eligible school.

3. Each student may be signed for by his parents or legal guardians only once on any given petition, such that each student equals one signature.

4. The standard parent petition may request the following information to be completed by parents or legal guardians of students:

a. printed name of student;

b. relationship of signatory to student;

c. grade level of student;

d. year(s) the student has attended the school;

e. printed name of signatory;

f. signature of parent or legal guardian;

g. date of signature;

h. parent or legal guardian contact information;

i. a consent statement for purposes of sharing the petition as a public record; and

j. the identification of "lead petitioners" to assist and facilitate communication between the parents and legal guardians who have signed the petition and the department; and

k. any other information deemed necessary by the department.

5. The standard petition shall also clearly state all rules and procedures for completing and submitting a parent petition.

E. Prohibited Practices

1. Parents or legal guardians shall be free from harassment, threats, and intimidation related to circulation of or signing a petition. No person shall knowingly, willfully, or intentionally:

a. intimidate, deceive, or misinform, directly or indirectly, any parent or legal guardian in matters concerning the circulation of or signing a petition;

b. intimidate a person by the use of violence, force, or threats with the intent to influence that person's decision to sign or not sign the parent petition, or to impede such person's ingress or egress from accessing the parent petition; or

c. without lawful authority, obstruct, hinder, or delay any parent or legal guardian on his way to or while returning home from any gathering or information session

related to the circulation of or signing a parent petition, or while returning home from such place.

2. No person shall give or offer to give, directly or indirectly, any money, or anything of apparent present or prospective value to any parent or legal guardian with the intent to influence the parent or legal guardian in relation to the circulation or signing of a parent petition.

3. No person shall:

a. sign the parent petition, knowing that he is not qualified, or influence or attempt to influence another to sign the parent petition, knowing such person to be unqualified to sign or the signature to be fraudulent;

b. forge the signature of another or sign the parent petition using an assumed or fictitious name; or

c. forge, alter, add to, deface, take, destroy, or remove from any parent or legal guardian a parent petition that such parent or legal guardian is attempting to circulate or sign.

4. Any signature determined by the department to have been made as a result of prohibited practices may be deemed invalid.

5. Any person harassing, threatening, or intimidating parents or legal guardians related to the circulation of signing a parent petition may be subject to criminal prosecution under the laws of this state, including, but not limited to R.S. 14:122.1, 14:285, or 14:329.1.

6. Employees of any public school or school district, or members or employees of any city, parish, or local public school board, or other public entity governing a public school shall not utilize school or district resources to support or oppose any effort by petitioning parents or legal guardians to gather signatures and submit a petition.

F. Submission of Petitions

1. Petitions must be submitted to the department, in accordance with the processes and procedures specified by the department, no later than 90 calendar days following the release of the list of eligible schools and the standard petition by the department.

2. Petitioners may not submit a petition until they reach or exceed the final required minimum number of signatures specified by the department.

G. Review of Petitions

1. Upon timely receipt of a submitted parent petition, the department will review the petition to ensure that the petition has the minimum number of required signatures.

a. Only one signature per student will be counted.

b. Only original signatures will be counted. Photo-copied signatures will not be counted.

2. If the department finds that the number of valid signatures is fewer than the final minimum number of required signatures, parents or legal guardians shall have thirty calendar days, commencing with a date specified by the department, to resolve such discrepancies and collect the additional signatures.

3. Once the department has determined the parent petition has the minimum number of signatures required, the department shall post a notification on its website. The notification shall include information identifying the school that is the subject of the completed parent petition, procedures for requesting a copy of the parent petition through a public records request, and procedures and deadlines for challenging the validity of a signature on the parent petition. On the same day the notification is published online, the department shall also send this information, via certified mail, to the lead petitioners, the RSD superintendent, the local superintendent and the president of the city, parish, or local public school board, or other public entity governing the school which is the subject of the parent petition.

4. The department shall create a signature review and verification process that meets the following requirements.

a. The signatures on the parent petition will be assumed valid unless challenged or there is reasonable doubt of their validity.

b. The department's website will clearly explain the procedures for challenging the validity of a signature on the parent petition.

c. The department shall accept challenges to the validity of signatures on a parent petition at a minimum, for 15 business days after publishing the online notification of the completed parent petition. The department shall respond to all public records requests for copies of the parent petition within three business days of receipt of the request.

d. The department shall determine acceptable challenges to the validity of a signature as follows.

i. Acceptable challenges to the validity of a signature shall include, but not be limited to:

(a).(i). the student identified in the parent petition was not enrolled in the school on the date of the parent or legal guardian's signature;

(ii). the person signing the petition is not the identified student's parent or legal guardian;

(iii). the signature is a forgery;

(iv). the signature was made as a result of harassment, threat, or intimidation; or

(v). the signature was made in exchange for a gift of, or offer to give, directly or indirectly, any money, or anything of apparent present or prospective value;

(b). in addition, for a parent petition requesting transfer of the school to the local school board, an acceptable challenge is the claim that a student identified on the petition has not been enrolled in the school for a minimum of two consecutive years.

ii. Unacceptable challenges to the validity of a signature shall include, but not be limited to:

(a). incorrect dates on the parent petition;

(b). the name of student, parent, or legal guardian is misspelled or does not match student, parent, or legal guardian records on file at the school; or

(c). a parent or legal guardian wishes to revoke their valid signature.

e. Notwithstanding the above, signatures shall not be discounted over technicalities if the clear intent of the parent or legal guardian was to support the petition.

f. If validity is challenged or doubted for a number of signatures that, if invalidated, would bring the number of signatures on the parent petition below the majority required, the department shall review and verify the signatures within 45 calendar days.

g. The school and the city, parish, or other local public school board, or other public entity that is the subject of the parent petition shall provide assistance requested by the department for the purpose of verifying signatures.

5. The department shall maintain records regarding the contents and outcomes of the petition.

H. Outcome of Petitions

1. Transfers to the RSD

a. After the department has verified signatures, as necessary, and has determined that the number of valid signatures on the parent petition meets the minimum number of required signatures, authority is hereby delegated to the state superintendent to approve the transfer of the school to the jurisdiction of the RSD no later than March 31 preceding the effective date of the transfer. Approval of such transfer shall be reported to the state Board of Elementary and Secondary Education (BESE) at the next scheduled BESE meeting.

b. The state superintendent shall approve transfers to the recovery school district under this Section for all parent petitions that have been completed successfully and appropriately, in accordance with the policies and procedures in this Section, subject to the capacity of the RSD and availability of funds and resources necessary to complete the transfer and manage or oversee the operation of the school, as determined by the state superintendent.

c. BESE reserves the right to limit the number of schools that may be approved by the state superintendent each year for transfer to the RSD under this Section.

2. Transfers to the Local School Board

a. After the department has verified signatures, as necessary, and has determined that the number of valid signatures on the parent petition meets the minimum number of required signatures, and given written notice of this determination to the local school board, the local school board shall consider the approval of the transfer of the school back to the local school board.

b. Upon the local school board's approval of the transfer, the local school board shall present the parent petition to BESE for approval no later than March 31 preceding the effective date of the transfer. BESE shall consider the parent petition at the next scheduled BESE meeting.

3. The department shall provide notice of the approval of the transfer to the RSD or local school board by posting on the department's website, sending written notice via certified mail to the RSD superintendent, the city, parish, or local school board, or other public entity from which the school shall be transferred, and contacting the lead petitioners identified on the parent petition. The date of such notification on the department's website shall serve as the date the transfer to the RSD or local school board is officially approved.

4. For each parent petition received by the department, the state superintendent shall submit a written report to BESE which shall include, at a minimum, the following:

a. dates the petition was received by the department;

b. number of total signatures on the parent petition;

c. number of valid signatures on the parent petition;

d.i. summary of the department's signature verification process;

ii. specific actions taken by the department in response to challenges made to signatures on the petition, as applicable; and

iii. whether the state superintendent approved the transfer of the school to the jurisdiction of the RSD or the local school board approved the transfer of the school to the jurisdiction of the local school board.

5. The president of BESE may appoint a subcommittee of BESE members to serve in an advisory capacity and review the parent petition and report to ensure that the petition was completed successfully and that the procedures outlined in this Section have been properly followed. The membership of the subcommittee shall include the BESE member representing the district in which the school that is the subject of the parent petition is located.

I. Transfer to the Recovery School District

1. A school transferred to the jurisdiction of the RSD pursuant to this Section may be directly operated by the RSD or operated as a type 5 charter school by an approved charter operator.

2. Upon transfer of a school to the RSD under this Section, the RSD shall engage in community outreach with parents, legal guardians, and members of the community in which the school is located to consult regarding school model and other operational decisions.

J. Transfer to the Local School Board

1. A school transferred to the jurisdiction of the local school board pursuant to this Section may be directly operated by the local school board or by a district authorized charter operator.

2. Upon transfer of a school to the local school board under this Section, the local school board shall engage in community outreach with parents, legal guardians, and members of the community in which the school is located to consult regarding school model and other operational decisions.

K. Student Enrollment

1. The city, parish, local public school board, or other public entity from which a school is transferred to the RSD under this Section shall create enrollment policies allowing students who choose not to remain enrolled at the school as a result of the school's transfer to the RSD to transfer to another school operated by the city, parish, local public school board, or other public entity.

2. The local school board shall permit any student attending a school that has been approved to be transferred back to the local school board to remain enrolled at that school upon transfer.

3. A school transferred to the RSD or back to the local school board pursuant to this Section shall maintain open enrollment policies and shall not impose student admission requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17.10.5

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3121 (December 2012), amended, LR 39:3252 (December 2013).

§505. Return of Schools to LEA

A. - C. ...

D. A non-failing school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years as either a direct-run RSD school or a type 5 charter school. A

school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE, regardless of changing operators or site codes for the school since that time. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school has earned for the past two consecutive years a school performance score (SPS) of 54.0 or above. If the academically unacceptable school (AUS) bar is raised above 50.0, then the school must have earned for the past two consecutive years a school performance score that is at least 4.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system.

a. Beginning with the return eligibility process beginning in the 2013-14 school year, in order to be eligible to choose to transfer from the jurisdiction of the RSD, schools comprised entirely of grades below ninth grade shall have two consecutive school performance scores based on test data from students actually attending that school, rather than test data from a paired school. For schools comprised entirely of grades above eighth grade, both consecutive school performance scores shall include ACT data for students actually attending the school, and at least one of the school performance scores shall include graduation index and graduation rate data for students actually attending the school.

3. The school elects to transfer from the RSD and has notified BESE in writing, no later than December 1 of the year preceding the effective date of the proposed transfer.

a. Type 5 Charter School. The charter school's governing authority shall take official board action based on a vote of its membership, in accordance with its by-laws, to notify BESE in writing of its desire to transfer from the jurisdiction of the RSD to its former LEA or an AGA as a type 3B charter school. Such notice shall state whether the charter school desires to remain an independent LEA or have the former school board serve as the charter school’s LEA.

b. Direct-Run RSD School. The superintendent of the RSD, in consultation with the parents of students attending the school, and the school's staff, shall make a recommendation to BESE seeking transfer from the jurisdiction of the RSD.

4. No later than January 1 of the school year preceding the effective date of the proposed transfer, BESE shall make a determination whether or not to allow an eligible non-failing school to seek transfer to its former LEA or an AGA. At that time, BESE may require the school to agree to comply with certain requirements prior to the effective date of the proposed transfer.

5. If BESE approves the transfer, the former LEA or the AGA must notify BESE, in writing, whether it has agreed to accept jurisdiction of the transferring school no later than March 1 of the school year prior to the effective date of the proposed transfer.

6. The following parties must agree to the transfer no later than April 1 of the school year preceding the effective date of such transfer:

a. the governing authority of a charter school, if a charter school; or

b. the superintendent of the RSD, if a direct-run RSD school; and

c. BESE; and

d. the recipient LEA or AGA.

E. A direct-run RSD school that has received a letter grade of “D” or “F” for five consecutive years may be transferred back to the local school board pursuant to the parent petition process specified in §502 of this bulletin.

F. A direct-run RSD school that is deemed a failing school and has not been approved for transfer back to the local school board pursuant to the parent petition process specified in §502 of this bulletin may be eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years at the conclusion of the school year preceding the effective date of the proposed transfer. A school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE, regardless of changing operators or site codes for the school since that time. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school is labeled as in AUS status as defined by the statewide school and district accountability system during its fifth year, or any subsequent year the school remains within the RSD.

3. The school is not undergoing a charter conversion or phase-out, as defined in Subsection J below.

4. The recipient LEA or AGA has agreed to accept the school and has developed a proposal for the school's turnaround.

5. BESE has approved the recipient authority's turnaround proposal for the school.

6. The following parties have agreed to such transfer from the RSD:

a. the superintendent of the RSD; and

b. BESE; and

c. the recipient LEA or AGA

G. Type 5 Charter Schools. The transfer of a type 5 charter school from the RSD shall become effective on July 1 of the year following BESE's approval of such transfer.

1. The local school board shall permit a type 3B charter school to remain in the facility in which it was located at the time of transfer or shall provide the type 3B charter school with another facility for use.

2. The charter school shall negotiate a new charter contract agreement with the recipient authority to become a type 3B charter school. A copy of the signed negotiated charter contract agreement must be provided to BESE no later than Apri1 1 preceding the effective date of the proposed transfer. The new charter contract, to be effective on the date of transfer (July 1), and any subsequent renewal charter contracts must:

a. be consistent with all state and federal laws governing charter school authorization;

b. contain academic performance standards for the initial and first renewal term lengths that are equal to or

greater than type 5 charter school performance standards as enumerated in BESE Bulletin 126, §519;

c. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer (prior to January 1);

d. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

e. prohibit the charter school from establishing admissions requirements; and

f. require any school that participated as a type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to type 5 charter schools participating in the enrollment system and expulsion process; and

ii. continue to provide transportation services for students who reside more than one mile from the school.

H. Direct-Run RSD Schools. A direct-run RSD school may transfer directly to the recipient authority as a direct-run school, or may transfer as a type 3 or type 4 charter school.

1. Transfer to a Charter School. A non-failing direct-run RSD school may transfer to the recipient authority as either a type 3 or a type 4 charter school. Such transfer to the recipient authority shall be made in the same manner and with the same requirements as described in Paragraph G.2 above.

2. Transfer as a Direct-Run School. A direct-run RSD school may transfer as a direct-run school under the recipient authority, in which case the recipient authority shall enter into a memorandum of understanding (MOU) with BESE. The MOU shall, at a minimum:

a. require that the school comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer (prior to January 1);

b. permit the school to remain in its facility or designate an alternative facility for use by the school;

c. prohibit the school from establishing admissions requirements;

d. require the school to continue to participate in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families. At a minimum, the contract shall require the charter school to:

i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The school shall follow all policies and procedures applicable to type 5 charter schools participating in the enrollment system and expulsion process; and

ii. continue to provide transportation services for students who reside more than one mile from the school, in accordance with state law;

e. include a turnaround plan identifying key benchmarks and milestones demonstrating the strategy being executed to successfully improve student outcomes at the school, if the school is labeled *academically unacceptable*; and

f. provide for recourse, authorizing the transfer of the school back to the RSD, should the local school board violate the MOU.

I. The RSD has the responsibility to maintain high educational standards for all direct-run schools and charter schools under its jurisdiction.

J. Type 5 Charter School Accountability. The renewal of a charter agreement for any type 5 charter school that is labeled AUS in its fifth year of operation shall be governed by provisions found in Bulletin 126. If not renewed, the charter school will either revert to the direct control of the RSD, be closed, or may be transferred to another non-profit charter organization.

K. Direct-Run RSD Schools. Any direct-run RSD school that is labeled AUS in its fifth year of operation within the RSD shall be subject to one of the following.

1. Phase-Out. The school will be closed according to a timeline and its students will be transferred to other high performing schools.

2. Charter Conversion. The school may be converted to the control of a charter school that has a proven ability to implement a school turnaround model and will operate as a type 5 charter school.

3. Transfer to a Recipient LEA or AGA. The school may be transferred to a recipient LEA or AGA, which has the proven ability to implement a school turnaround plan.

4. Remain within the RSD. The school may remain within the RSD for an additional five-year period. The school performance will be reviewed on an annual basis and, if the school remains in AUS, a charter operator or recipient authority may submit a proposal to BESE for operation of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:3255 (December 2013).

Heather Cope
Executive Director

1312#007

RULE

Board of Elementary and Secondary Education

Bulletin 135—Health and Safety
(LAC 28:CLVII.301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 135—Health and Safety*, §301, Health Screening. The policy implements Act 329 passed during the 2013 Regular Legislative Session.

Title 28
EDUCATION
Part CLVII. Bulletin 135—Health and Safety
Chapter 3. Health
§301. Health Screening

A. - B. …

C. The LEA shall keep a record of such examination, shall be required to follow up on the deficiencies within 60 days, and shall notify in writing the parent or tutor of every student found to have any defect of sight or hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 39:3258 (December 2013).

Heather Cope
Executive Director

1312#008

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2375 and 2389)

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter C. Career and Technical Education
§2375. Business Education

A. The business education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business Law	10-12	1
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	9-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1
Web Design II	10-12	1
Word Processing	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007), LR 34:2557 (December 2008), LR 39:2222 (August 2013), LR 39:3258 (December 2013).

§2389. Credit for Career and Technical Education Courses

A. Requests for partial credit for two- or three-hour blocks of career and technical education courses because of unusual or extenuating circumstances shall be made by the school to the LEA. Documentation shall be kept in the student's cumulative folder.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005), amended LR 39:2225 (August 2013), LR 39:3258 (December 2013).

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1312#011

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Operation and Administration, Personnel, Records and Reports, Student Services, Discipline, Curriculum and Instruction, and Home Study Programs (LAC 28:CXV.339, 519, 705, 1113, 1303, 2305, 2313, 2347, and 3319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*, §339, Emergency Planning and Procedures, §519, Teacher Bill of Rights, §705, Student Academic Records and Reports, §1113, Orientation for Parents of First Time Students, §1303, Bullying, §2305, Ancillary Areas of Instruction, §2313, Elementary Program of Studies, §2347, Health Education, and §3319, Eligibility to Participate in High School Interscholastic Athletics. The policy implements laws passed during the 2013 Regular Legislative Session.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 3. Operation and Administration
§339. Emergency Planning and Procedures

A. Each public school principal or school leader shall have written policies and procedures developed jointly with local law enforcement, fire, public safety, and emergency preparedness officials, that address the immediate response to emergency situations that may develop in the schools and comply with the requirements in R.S. 17:416.16. The principal or school leader shall:

1. submit the crisis management and response plan to the local superintendent for approval;

2. annually review and possibly revise the crisis management and response plan; and

3. within 30 days of each school year, conduct a safety drill to rehearse the plan.

B. The school shall maintain and use contingency plans for immediate responses to emergency situations.

C. The school shall establish and use procedures for reporting accidents to parents and/or the central office.

D. In the absence of a principal or school leader, another individual(s) at the school shall be delegated the necessary authority to use emergency procedures.

E. Procedures for the cancellation of school shall be established, communicated to students, teachers, and parents, and followed when necessary.

F. The school shall establish procedures for special calls to police, fire departments, and hospitals, and practice drills shall be used to ensure the effectiveness of the procedure.

G. The school shall establish procedures for the evacuation of the building in the event of fire, severe weather conditions, or bomb threats. Practice drills shall be used to ensure the effectiveness of the procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:3258 (December 2013).

Chapter 5. Personnel

§519. Teacher Bill of Rights

A. - A.7. ...

8. a teacher has the right to complete only paperwork that is not excessively burdensome that, if required by law or regulation, adheres to the law or regulation and does not result in overly cumbersome interpretations of that law or regulation;

9. …

10. a teacher has the right to be afforded time during the school day or week to collaborate with other teachers.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.18.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 35:1100 (June 2009), LR 39:3259 (December 2013).

Chapter 7. Records and Reports

§705. Student Academic Records and Reports

A. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with USCS 1232g, R.S. 17:112, R.S. 17:177, and R.S. 17:391.7(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005), amended LR 39:3259 (December 2013).

Chapter 11. Student Services

§1113. Orientation for Parents of First-Time Students

A. …

B. Each local educational governing authority shall conduct a parent orientation course according to the following guidelines.

1. The program shall be scheduled to accommodate the attendance of the parents or guardians without the loss of work.

B.2. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:235.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005), amended LR 39:3259 (December 2013).

Chapter 13. Discipline

§1303. Bullying

A. - A.2.c. …

B. Training for School Personnel. Each LEA shall create a program to provide a minimum of four hours of training each year for new school employees who have contact with students, including bus drivers, with respect to bullying. The training shall be two hours each following year for all school employees who have contact with students and have received the four hour training. The training shall specifically include the following:

B.1. - F.1. …

2. Parental Notification of Allegation of Bullying

a. - b. …

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of the investigation. If, after three attempts in a 48-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

2.d. - 8.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 39:3259 (December 2013).

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - H.2.g. …

I. Each LEA shall provide to high school students age and grade appropriate classroom instruction relative to the state's safe haven relinquishments law, *Children's Code*, articles 1149-1160.

J. Each LEA shall provide appropriate instruction on adoption awareness to all high school students in a manner deemed appropriate by the school principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154, R.S. 17:261 et seq., R.S. 17:280, R.S. 17:281 et seq., R.S.17:404, R.S. 17:405 et seq., 36 USCS §106, R.S. 17:263, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:3259 (December 2013).

§2313. Elementary Program of Studies

A. - D.3.b. …

E. Each public elementary school that includes any of the grades kindergarten-eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. Repealed.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(26), R.S. 17:17.1, R.S. 17:24.8, R.S. 17:81, R.S. 17:154-154.1, and R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005),

amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1135 (April 2011), LR 39:3259 (December 2013).

Subchapter B. Academic Programs of Study

§2347. Health Education

A. - B. …

C. JROTC I and II may be used to meet the health education requirement provided the following requirements are met.

1. A minimum of 2000 minutes of instructional time shall be devoted health education in JROTC I and in JROTC II. Students must take both JROTC I and JROTC II to meet the health education requirement.

2. All of the standards and GLEs for health shall be covered in JROTC I and JROTC II.

3. JROTC I and JROTC II shall include instruction in CPR, adoption awareness, the safe haven relinquishments law, and content relative to dating violence as required by state law.

D. Health education shall include instruction relative to dating violence. Such instruction shall include, but need not be limited to, providing students with the following information:

1. the definition of "dating violence;"
2. dating violence warning signs; and
3. characteristics of healthy relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:1135 (April 2011), LR 39:3260 (December 2013).

Chapter 33. Home Study Programs

§3319. Eligibility to Participate in High School Interscholastic Athletics

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176(G) and 17:236.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1135 (April 2011), repealed LR 39:3260 (December 2013).

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1312#009

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Standards and Curricula
(LAC 28:CXV.2314 and 2324)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*, §2314, Carnegie Credit and Credit Flexibility, and §2324, Credit Recovery. The revisions provide clarity to these policies.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2314. Carnegie Credit and Credit Flexibility

A. LEAs may permit students to earn Carnegie credit as middle school and high school students in two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or

2. by demonstrating proficiency, as set forth below.

B. When awarding credit based on instructional time, LEAs shall require a minimum of 7,965 minutes for one Carnegie credit. In order to grant one-half Carnegie credit, LEAs shall require a minimum of 3,983 minutes.

C. When awarding Carnegie credit based on demonstrated proficiency, LEAs must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized; or

2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or

3. a listing of requirements to demonstrate proficiency through portfolio submissions.

D. Students enrolled in a course for the first time, which is not a credit recovery course or part of an accelerated program, shall only earn credit according to the pathway in Paragraph A.1 of this Section once the school year has begun.

1. If a student fails a course, but meets the standard of proficiency on the end-of-course exam, the student may retain that score to be factored into their final grade in either a credit recovery course or a repeat of the traditional course.

E. Proficiency in a course with a state-administered end-of-course exam must be demonstrated using the end-of-course exam.

F. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

G. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, P (pass), and the unit of credit earned entered on their transcript.

1. LEAs shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2215 (August 2013), amended LR 39:3260 (December 2013).

§2324. Credit Recovery

A. *Credit recovery* refers to instructional programs for students who have failed courses taken previously.

B. LEAs may develop *credit recovery* programs which are self-paced and competency-based.

1. Students earning Carnegie credit in a *credit recovery* course must have previously taken and failed the course.

2. Students shall not be required to meet attendance requirements for *credit recovery* courses.

3. *Credit recovery* courses must be aligned with the state's content standards.

4. *Credit recovery* courses taught in a classroom setting using computer software programs designed for *credit recovery* must be facilitated by a certified teacher.

a. Additional instruction to cover standards and grade-level expectations not included in the software programs shall be provided by a teacher properly certified in the content area.

5. The end-of-course exam weight in a student's final grade determined by the LEA shall be the same for a traditional course and a *credit recovery* course. Students who have previously passed the end-of-course exam, but have failed the course, may choose to retain their previous end-of-course exam score in lieu of participating in an additional administration of the exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 38:3134 (December 2012), amended LR 39:2216 (August 2013), LR 39:3260 (December 2013).

Heather Cope
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1312#010

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.543)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*, §543, Restrictions on the Use of Seclusion or Physical Restraint. The policy implements Act 1 of the 2013 Regular Legislative Session which requires the Board of Elementary and Secondary Education to ensure that the guidelines for the appropriate use of seclusion rooms and restraint of students shall only apply to students with disabilities.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Subpart I. Students with Disabilities
Chapter 5. Procedural Safeguards
Subchapter C. Seclusion and Physical Restraint
§543. Restrictions on the Use of Seclusion or Physical Restraint

A. - K.3. …

L. The guidelines and procedures shall be provided to all school employees and every parent of a child with a disability.

M. …

N. The Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with disabilities and shall disaggregated the data for analysis by school, student age, race, ethnicity, and gender, student disability, where applicable, and any involved school employees.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012), repromulgated LR 38:1225 (May 2012), amended LR 38:1404 (June 2012), LR 39:3261 (December 2013).

Heather Cope
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1312#012

RULE

Board of Elementary and Secondary Education

Comprehensive Revisions (LAC 28:I.305, 307, 309, 311, 313, 315, 501, 503, 701, 703, 705, 709, 713, 715, 719, 901, 903, 1101, 1103, 1105, 1107, 1109, and 1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the *Louisiana Administrative Code*, Title 28, Part I. Revisions to Title 28, Education, Part I, Board of Elementary and Secondary Education bring the BESE Code into alignment with current law and policy. The amendments in this Rule include technical and clarification revisions to the BESE Code, along with revisions to the following Sections:

- §313, Recovery School District—clarifies the bulletins to which the RSD may be subject;
- §315, Board Staff—removes staff appointment ratification requirement and clarifies duties of BESE staff in regard to charter schools;
- §501, Committees—clarifies circumstances under which certification denials occur;
- §503, Advisory Councils—clarifies proxies for members of the Superintendents' Advisory Council not eligible for travel reimbursement and clarifies language pertaining to scheduling meetings;
- §705, Agenda—clarifies the timeline for establishing the emergency agenda and board member requests to add items to an agenda;
- §709, Board and Committee Meeting Protocol—clarifies the manner in which agenda items added by board members will be considered;
- §713, Public Comments—clarifies when public comment cards are encouraged to be submitted and time allotments for public comment;
- §719, Minutes—addresses how to record board members not in attendance at committee meetings;
- §1107, Minimum Foundation Program—allows local education agency (LEA) participation in an alternate U.S. Department of Agriculture (USDA) food service program;
- §1303, Rulemaking—aligns Code with updates to the Administrative Procedure Act.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 3. Composition and General Authority
§305. Election of Officers and Their Duties

A. ...

B. The president shall conduct board meetings and perform duties designated by the board or by statute. The president shall sign, on behalf of the board, contracts, agreements, and/or official documents approved by the board. The president is authorized to make ad hoc decisions for the board in emergency situations when the board is not in regular or special session and where policies and statutes are silent. However, any such decisions that constitute an obligation, official position, or action of the board are subject to ratification by the board at the next scheduled meeting. The president shall appoint members of committees of the board.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3 and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008), amended LR 38:3149 (December 2012), LR 39:3262 (December 2013).

§307. General Powers and Duties

A. - A.14. …

15. authorize the operation of type 2, type 4, and type 5 charter schools and provide oversight through the LDE of type 2, type 4, and type 5 charter schools;

a. ...

b. enter into any proposed charter that complies with the charter school law and policy upon a determination that the charter is a valid, complete, financially well-structured, and educationally sound proposal that offers potential for fulfilling the purposes of the charter school law;

15.c. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII §8, R.S. 17:6(A), R.S.17:7(2)(a), R.S. 17:7(3), R.S. 17:7(4), R.S. 17:7(5), R.S. 17:7(6)(a)(i), R.S. 17:7(7), R.S. 17:7(8), R.S. 17:4.1, R.S. 17:43, R.S. 17:348, R.S. 17:6(A)(10), R.S. 17:6(A)(11), R.S. 17:10.5, R.S. 17:1990 and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 38:3150 (December 2012), LR 39:3262 (December 2013).

§309. State Superintendent

A. - A.1. ...

2. The board shall enter into a contract with the state superintendent that delineates the terms and conditions of employment. The length of the contract shall be determined by the board, but may not extend past the end of the term of office of the board members making the appointment, except that the contract may provide that the state superintendent may serve until the succeeding board has made an appointment.

A.3. - E.3. ...

4. The state superintendent may review the responsibilities of the LDE and prepare a plan to restructure and reorganize the LDE subject to the approval of the board and in accordance with Louisiana Revised Statutes 36:645.

5. - 6.b. ...

c. The state superintendent shall appoint the recovery school district superintendent with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the recovery school district superintendent will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

6.d. - 7.a. ...

i. courses of study prescribed by the board will be followed;

a.ii. - f. ...

8. The state superintendent shall make recommendations to the board for the approval of type 5 charter schools, subject to the policies and processes approved by the board.

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:21(C), 17:6(B), 17:21(B), 17:21(D), 17:21(A), 17:1990, 17:24(A), 17:24(B), 17:24(C), 17:24(D), 17:22(2)(f), 36:645, 17:22(6), 17:88(B), 17:88(D), 17:92, 17:10.6(A)(2), 17:3983, 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 37:886 (March 2011), LR 38:3150 (December 2012), LR 39:3262 (December 2013).

§311. The Special School District

A. - A.1. ...

a. The Louisiana special schools are state-operated schools providing educational programs and services for residential and/or day students. The Louisiana special schools are established to provide a free appropriate public education for children with low incidence disabilities who meet the admission criteria (i.e., deaf, blind, orthopedically impaired) for each such special school and who are enrolled in such special school.

A.1.b. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:4.1, R.S. 17:6(B), R.S. 17:43, R.S. 17:1945, R.S. 36:642(C)(1), and R.S. 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008), amended LR 38:3151 (December 2012), LR 39:3262 (December 2013).

§313. The Recovery School District

A. - C. ...

1. Policies for the board's administrative oversight of the recovery school district shall be adopted by BESE and set forth in the recovery school district bulletin. Administrative oversight shall include, but not be limited to:

a. policy governing activities that will ensure the purpose and functions of the recovery school district are being achieved;

b. fiscal responsibilities are being met;

c. community involvement is sought;

d. property is managed and developed under uniform and established guidelines;

e. student progress is measured and corrective action is taken when necessary;

f. district progress is measured in all essential areas and corrective action is taken when necessary;

g. reporting and planning measures are defined;

h. compliance with law and board policy exists;

i. charter school oversight exists; and

j. the recovery school district plan is being fulfilled.

2. - 2.i. ...

3. The recovery school district shall be subject to other BESE bulletins, including but not limited to the BESE charter school bulletin, to the extent that they are applicable to schools under its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(B), and R.S. 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010), LR 38:3151 (December 2012), LR 39:3262 (December 2013).

§315. Board Staff

A. - B. ...

C. The executive director shall appoint unclassified administrative staff.

D. - E.1. ...

2. assist in the policymaking functions, including the formulation and maintenance of regulating bulletins and rules;

3. - 7. ...

8. monitor the LDE's development and implementation of charter school policy and its oversight of charter schools authorized by BESE;

E.9. - F. ...

G. All persons who are subject to the jurisdiction of the board and sign checks shall be bonded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(15), R.S. 17:6(A)(10), R.S. 17:3(D), Article VII §10.1, R.S. 17:3801, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 38:3152 (December 2012), LR 39:3263 (December 2013).

Chapter 5. Organization

§501. Committees

A. - B.1.a.i. ...

(a). increasing accountability; and

i.(b). - ii. ...

(a). policy concepts and subcommittee reports;

a.iii. - b. ...

i. critical updates;

1.b.ii. - 3.a.i. ...

(a). policy concepts;

(b). certification revocations;

(c). records reviews for:

(i). certification denials due to felony convictions and the submission of fraudulent documents;

(ii). revocations due to felony convictions;

(iii). revocations due to submission of fraudulent documents;

3.a.ii. - 4.a.i. ...

(a). charter amendment requests, approvals, extensions, and renewals, etc.;

a.ii. - b.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2139 (July 2011), LR 38:3152 (December 2012), repromulgated LR 39:308 (February 2013), amended LR 39:3263 (December 2013).

§503. Advisory Councils

A. - C.1.b. ...

i. eleven members, one member recommended by each BESE member from the member's assigned category, as follows:

1.b.i.(a). - 3.b.i. ...

ii. the superintendent of the recovery school district (RSD), who is appointed by the state superintendent of education;

iii. ...

c. expenses. Members shall not receive reimbursement for travel expenses from the board.

d. Referrals/responsibilities:

i. consider all matters referred by the board or the LDE;

ii. recommendations from the superintendents' advisory council shall be reported to the appropriate board committee. The LDE shall provide responses to the recommendations.

4. Textbook/media/library advisory council:

a. authority—per state statute (R.S. 17:415.1);

b. - b.iii. ...

iv. eleven members, one member recommended by each board member, from the member's assigned category, as follows:

C.4.b.iv.(a). - F. ...

1. Terms. Unless otherwise provided by state or federal law, persons appointed by board members shall serve two-year staggered appointments at the pleasure of their recommending authority. Persons appointed by organizations and agencies other than BESE shall serve terms determined by the appointing authority. All appointments shall be made in July of the appropriate year, as determined by BESE staff. A council member may be removed without cause by the board member recommending the appointment, by the board member's successor, or by the recommending agency at any time. Appointees must maintain employment/qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced.

2. ...

3. Expenses. Members of advisory councils may be entitled to reimbursement for travel expenses, if specified by statute or not prohibited by board policy, pending availability of funds. Requests for reimbursement for expenses shall be submitted in accordance with the regulations promulgated by the commissioner of administration in the *Louisiana Travel Guide*.

4. Quorum. Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take unofficial action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present. When it is known beforehand that a quorum is unlikely, the council chair shall be so notified and the meeting shall be canceled.

5. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as that member's proxy if the appointing

authority does not object. Proxies shall retain voting privileges. To receive reimbursement for travel and other expenses, a proxy must be properly designated by the active member and recorded in the minutes as being present. If the proxy is representing an advisory council member who is prohibited by board policy from receiving reimbursement for travel expenses, the proxy is likewise prohibited from receiving reimbursement.

F.6. - G.1. ...

2. Regular meeting dates shall be scheduled one year in advance and shall be determined by the executive director or the executive director's designee.

3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, and R.S. 17:11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR:38:3152 (December 2012), LR 39:3263 (December 2013).

Chapter 7. Operations

§701. Public Meeting Notice

A. - B. ...

C. Cancellations. Cancellations of any board or committee meetings shall be made after a 24-hour public notice of the cancellation. In the event of the absence of a quorum at the scheduled time and place of the meeting, the meeting shall be cancelled because a quorum must be present in order that official business may be legally transacted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:14, R.S. 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 39:3264 (December 2013).

§703. Regular and Special Meeting Schedules

A. - H.1. ...

2. When the board convenes itself as a Committee of the Whole, it acts as any committee. Its discussion is limited to the agenda item(s), and it has no greater authority than a regular committee. The board president convenes and adjourns the meeting, and each committee chair presides over that portion of the meeting pertaining to the issues routinely considered by his/her committee. Votes are not final, and committee actions are considered to be recommendations from the committee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(E), R.S. 17:6(A)(10), and Article VIII, Section 5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 35:1874 (September 2009), LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013).

§705. Agenda

A. - A.2. ...

3. A board member, the state superintendent, or the executive director must request that an item be placed on the emergency agenda at least 26 hours prior to a scheduled meeting. The emergency agenda must be posted publicly at least 24 hours prior to the scheduled meeting.

B. Establishing Committee Agenda

1. The agenda for each committee shall consist of only those items listed in the public notice in accordance with the Louisiana Open Meetings Law.

2. The agenda for each committee meeting may include consent items, standing items, unfinished business, new business resulting from board referrals, and public comments received regarding Notices of Intent.

3. Items shall be placed on a committee agenda by using either the board's referral process or the draft agenda process as established through a board protocol. Items may be referred by board members, the state superintendent, or the BESE executive director. Board members must submit agenda item requests at least 18 days prior to a scheduled committee meeting.

C. ...

D. Distribution and Posting of the Agenda. The agenda for board and committee meetings shall be distributed to board members at least 10 days prior to the meeting date and posted on the web at http://www.bese.louisiana.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013).

§709. Board and Committee Meeting Protocol

A. - B.5.g. ...

h. refrain from engaging in prolonged question and answer dialogue with staff on specific issues that could otherwise be addressed before or after the meeting.

B.6. - D.4. …

5. For agenda items added by board members, the following shall apply:

a. presentations and backup materials shall be presented in consult with and/or by LDE/BESE staff; or

b. presentations and discussions shall be time limited to 10 minutes, unless a majority of board members vote to extend the time limit for the item.

6. A board member may request from the LDE any public document that has already been prepared or is in a readily available form.

7. A board member may not request new research, records, or reports not available and which requires compilation or research without a motion adopted by a majority of the board.

8. Persons other than board members, the executive director, staff persons assigned to the committee, or the state superintendent should not be on the dais while business is being conducted.

9. The presiding officer or chair should ask all presenters to identify themselves for the record.

10. Private discussions among board member(s), staff, or the state superintendent should occur away from the designated meeting area. The audience is asked to go outside the meeting room to conduct personal discussions.

11. Board members are asked to remain seated when individuals are making presentations to the board or receiving recognition by the board, as it is always an honor to be recognized by state-level officials.

12. Cell phones and other electronic devices must be turned off or taken to the side rooms for conversations, when activated.

13. Each member shall have the opportunity to speak on personal privilege following request by the member and

recognition by the presiding officer. This privilege shall be conducted according to *Robert's Rules of Order*.

14. When a member feels the rules are being violated as to procedure, the member may make a point of order request to the presiding officer, calling for a ruling and an enforcement of the regular rules. A point of order request shall follow procedures in *Robert's Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:13, R.S. 17:3(C), R.S. 42:14, and R.S. 42:16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013).

§713. Public Comments

A. To carry on its business in an orderly and efficient manner, the board utilizes committees. Full discussion of board business optimally occurs at the committee level, and public comment should be received at that time, rather than after a recommendation has been forwarded to the board. Opportunity to comment publicly on a committee or board agenda item shall be provided to a representative number of proponents and opponents according to the following procedures.

1. Persons desiring to address the committee/board should complete a request to comment card and submit it to the presiding officer or a BESE staff member prior to the beginning of the meeting. The completed card should identify the issue or item to be addressed. Other members of the public may be recognized at the discretion of the presiding officer or chair.

2. - 5. ...

6. Submission of comment cards at least five minutes prior to the beginning of the meeting is encouraged.

7. - 8. ...

9. Public comments are limited to no more than three minutes per individual and five minutes per designated spokesperson of a group/organization. The chair may increase or decrease the time allotted to speakers, within time constraints.

10. The presiding officer or chair shall have discretion to manage situations not addressed in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 42:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008), amended LR 36:59 (January 2010), LR 37:2141 (July 2011), LR 38:3154 (December 2012), LR 39:3265 (December 2013).

§715. Executive Session

A. - D. ...

1. a statement identifying the court, case number, and the parties relative to any pending litigation; or

2. a statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:16, R.S. 42:17, and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), LR 39:3265 (December 2013).

§719. Minutes

A. - B.1. ...

2. the members recorded as either present or absent (Board members who do not attend committee meetings should be recorded as "not in attendance.");

3. the substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken; and

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:20.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 37:2142 (July 2011), LR 38:3154 (December 2012), LR 39:3265 (December 2013).

Chapter 9. Equal Employment

§901. Equal Employment Opportunity; Affirmative Action

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, title VII of the Civil Rights Act of 1964), BESE upholds the following policy: This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in employment in all agencies and institutions under its direct supervision. Applicants and employees will not be discriminated against on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor in any aspect of employment such as recruitment, hiring, promotion, retention, tenure, discharge, layoff, compensation, leave, fringe benefits, training, or any other employment practice or benefit.

B. Should violations of any equal employment opportunity laws and regulations occur, appropriate disciplinary action will be taken by the appointing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 38:3154 (December 2012), LR 39:3265 (December 2013).

§903. Civil Rights Compliance and Assurances

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; §504 of the Rehabilitation Act of 1973), BESE upholds the following policy:

> "This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in all programs or activities under its direct jurisdiction including city, parish, or other local public school systems or other entities receiving state or federal financial assistance through the board. No one will be discriminated against in any employment practice or in any educational program or activity on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor."

B. - C. ...

D. The LDE staff will conduct compliance activities as required by agencies providing funding to ensure compliance with their regulations.

E. ...

F. All city, parish, or other local public school systems or other entities under the jurisdiction of the board which receive state or federal financial assistance through the board will sign an assurance document stating that they will comply with all applicable board policies, LDE regulations, and federal and state laws regarding civil rights compliance.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3154 (December 2012), LR 39:3265 (December 2013).

Chapter 11. Finance and Property

§1101. Projects and Facilities

A. Capital Projects

1. All requests for new capital construction or renovation projects submitted by board entities, including the special school district and the recovery school district, shall comply with all applicable state laws, all applicable regulations issued by the Division of Administration, and all BESE policy.

2. Requests for capital projects from the special school district shall be submitted to the superintendent of the special school district.

3. All requests for any given fiscal year shall be prioritized by the LDE, and the LDE shall present the priority listing of projects to the board. The board shall approve all capital construction or renovation projects and the priority of the requests prior to submission to the executive and legislative branches of government or prior to implementation of a project, as applicable.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3154 (December 2012), LR 39:3266 (December 2013).

§1103. Purchasing, Auditing, and Contracts for Professional Services

A. Purchasing. Entities under the jurisdiction of the board shall comply with all applicable federal and state laws, rules, regulations, and board policy which govern the purchase of goods and services.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3155 (December 2012), LR 39:3266 (December 2013).

§1105. Budgets

A. General Policies

1. The LDE, including the special school district and the recovery school district, and all entities under the jurisdiction of the board shall submit all budget requests for all funds (state, federal, self-generated, etc.) to the board for review and approval. The entities shall be responsible for complying with all state laws and regulations regarding budget submission to the executive and legislative branches of government.

2. ...

B. Budget Submission. The LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall submit their budgets to the board in a timely manner for approval prior to submission to the Division of Administration and legislative offices.

C. Budget Forms. The LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall submit their budgets on the forms prescribed by the Division of Administration.

D. ...

E. Interim Emergency Board. Prior to the submission of a request for funding from the Interim Emergency Board of the legislature, the LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall complete requests on forms prescribed by the Interim Emergency Board and shall receive approval for submission by the board. Submissions to the Interim Emergency Board shall be in compliance with all rules promulgated by that board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 38:3155 (December 2012), LR 39:3266 (December 2013).

§1107. Minimum Foundation Program

A. MFP: General Provisions

1. Board Adoption

a. The state superintendent of education shall prepare and recommend to the board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In preparing this recommendation, the state superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

1.b. - 2....

a. It shall be the responsibility of city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to submit to the LDE in a timely manner all necessary and required information for the computation of an individual allocation from the minimum foundation formula. This information shall be submitted to the LDE in the form required by the LDE. It shall also be the responsibility of all city, parish, or other local school systems, recovery school district schools, and LSU and Southern Lab schools to follow all circulars issued by the LDE providing instructions for the preparation of the required data and other instructions regarding the computation of an allotment from the formula.

B. MFP Payments

1. City, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

C. MFP—Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; Office of Juvenile Justice schools; New Orleans Center for Creative Arts (NOCCA); and Louisiana School for Math, Science, and the Arts (LSMSA) shall adhere to the following.

a. All students included for membership in a school shall be identified with the following minimum required identification elements:

i. state identification number;

ii. full legal name;

iii. date of birth;
iv. sex;
v. race;
vi. district and school code;
vii. entry date; and
viii. grade placement.

b. For establishing the base student membership count for state funding, the following guidelines will be adhered to:

i. - ii.(c). ...

iii. students who are in BESE-approved alternative programs (schools) in city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; or Office of Juvenile Justice schools will be included in the base student membership count.

C.1.b.iv. - D.1. ...

a. At-risk student count shall be determined by the following:

i. for those schools or school systems participating in the National School Lunch Program (NSLP) using meal benefits applications for free and reduced price meals, the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current income eligibility guidelines include those students qualifying to participate in the federal free and reduced price breakfast and lunch program. The fall count is determined by the number of students qualifying for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS). For any additional required count date(s), the at-risk student count will be those qualifying for free and reduced price lunch as reported in SIS, as of that count date; and

ii. for those schools or school systems participating in an alternate USDA food service program such as provision 2 or community eligibility option (CEO), the percentage rate for free and reduced price lunch will be frozen at the latest available free and reduced price lunch percentage prior to participation in the program and shall be multiplied by the base membership count to determine add-on low income students.

b. English language learner student count shall be determined by the number of students reported in SIS as English language learners.

c. Career and technical education unit count shall be determined by the number of secondary career and technical education courses per student as reported by the school districts through the Louisiana Education Accountability Data System (LEADS) for the prior year.

d. Special Education—other exceptionalities student count shall be determined by the number of special education students identified as having "other exceptionalities" in the Special Education Reporting (SER) database as of the student count date(s) including:

i. infants and toddlers ages 0-2, who have a current individual family service plan (IFSP) and are currently receiving services; and

ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who have a current individual education plan (IEP) and are currently receiving services from any local public school system or school. (Students serviced by SSD #1 and certain correctional facilities are excluded.)

e. Special Education—gifted and talented student count shall be determined by the number of special education students in the SER database as of the student count date(s), which includes both public and nonpublic special education students ages 3-21, identified as gifted and talented, as defined by R.S. 17:1943, who have a current IEP and are currently receiving services from any local public school system or school.

f. Economy of scale student count shall be determined by the number of students in the base student membership count as defined in LAC 28:I.1107.C.1.

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011), LR 37:3219 (November 2011), LR 38:1404 (June, 2012), LR 38:3155 (December 2012), LR 39:3266 (December 2013).

§1109. Expenditure of Public Education Monies

A. All public education funds, in particular all state and federal monies, shall be allocated and expended in compliance with applicable federal and state laws, regulations, and policies. Any public employee of the board office who knowingly recommends or authorizes contract awards and/or expenditure of funds in violation of federal and state laws and/or BESE regulations or policies shall be subject to disciplinary action, including dismissal from employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), LR 39:3267 (December 2013).

Chapter 13. Regulatory Documents

§1303. Rulemaking

A. - C. ...

1. The board approves a proposed Rule to be advertised as a Notice of Intent. The Notice of Intent approval will serve as authorization for the BESE executive director to submit the Notice of Intent to the *Louisiana Register* for final adoption as a Rule at the expiration of the required 90-day advertisement period, if no public comments are received relevant to said Notice of Intent. If comments are received regarding the Notice of Intent, the comments will be considered by the board prior to final adoption as a Rule (refer to 2.e-2.f.ii below).

2. Following Approval of a Proposed Rule to be Advertised as a Notice of Intent

a. The appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Statement, a Small Business Statement, a Public Comments paragraph, a Fiscal and Economic Impact Statement (FEIS), and comparison language (if applicable) to the board recorder for processing.

b. ...

c. After the Fiscal and Economic Impact Statement is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Louisiana Register* for publication. A report regarding the Rule is also submitted to the appropriate legislative committees.

d. - f.ii. ...

3. The deadline for submission of information for publication of Notices of Intent or Rules in the *Louisiana Register* is the tenth of the month.

D. Due to the board meeting schedule, the Fiscal and Economic Impact Statement approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)and R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013).

Heather Cope
Executive Director

1312#013

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Air Regulations—Miscellaneous Incineration; Comprehensive Toxic Air Pollutant Emission Control Program; and Area Sources of Toxic Air Pollutants (LAC 33:III.2511, 5113, and 5308)(AQ341)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC:33:III.2511, 5113, and 5308 (AQ341).

This Rule will correct and revise language that is inaccurate or unnecessary. In previous rulemaking, language was inadvertently added to two Sections of the Air regulations. This Rule will delete the repetitive language. The basis and rational for this Rule are to correct regulation language that is inaccurate and/or repetitive. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 25. Miscellaneous Incineration

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. - E.8. …

F. Radioactive Materials. Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.463.

G. - L. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:3268 (December 2013).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5113. Notification of Start-Up, Testing, and Monitoring

Editor's Note: Repealed.

A. - C.4. …

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7. …

8. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:2094 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2744, 2755 (November 2012), LR 39:3268 (December 2013).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter A. Reserved.

§5308. Reporting Requirements [Formerly §5307]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005), LR 33:2096 (October 2007), amended by the Office of the Secretary, Legal Division LR 38:2755 (November 2012), repealed LR 39:3268 (December 2013).

Herman Robinson, CPM
Executive Counsel

1312#038

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Concentrated Animal Feeding Operation (CAFO)
(LAC 33:IX.2505)(WQ087)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2505 (WQ087).

This Rule removes the vacated portions of the 2008 CAFO Rule (77 FR 44494), which required CAFOs that propose to discharge to apply for an NPDES permit. The requirement for a concentrated animal feeding operation (CAFO) to apply for an LPDES permit will revert back to the 2003 CAFO rule, where the CAFO must obtain an LPDES permit if the CAFO discharges a regulated wastewater. The vacated elements include:

1). the requirement for CAFOs that are "designed, constructed, operated or maintained such that a discharge of regulated wastewater will occur" to apply for an LPDES permit (LAC 33:IX.2505.D.1);

2). deadlines for CAFO operators to seek coverage (LAC 33:IX.2505.F);

3). the duty to maintain permit coverage (LAC 33:IX.2505.G); and

4). the no discharge certification option (LAC 33:IX.2505.I).

On July 30, 2012, EPA published a final Rule amending the regulations eliminating the requirement where an owner or operator of a concentrated animal feeding operation (CAFO) that proposes to discharge must apply for a national pollutant discharge elimination system (NPDES) permit. This Rule also removed the voluntary certification option for an unpermitted CAFO since the "propose to discharge" requirement renders the certification option unnecessary. The certification option allowed CAFO owners and operators to certify that if they discharge, they must seek permit coverage. Since specific date deadlines have passed, timing requirements related to when CAFO operators must seek coverage under an NPDES permit renewal were removed. EPA's final Rule is due to the United States Court of Appeals for the Fifth Circuit (the court) opinion that vacated those portions of the 2008 CAFO Rule requiring a CAFO to apply for an NPDES permit if they proposed to discharge. National Pork Producers Council v. EPA, 635 F.3d 738, 756 (5th Cir. 2011). The basis and rational for this Rule is to be consistent with the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Chapter 25. Permit Application and Special LPDES Program Requirements
§2505. Concentrated Animal Feeding Operations (CAFO)

A. Permit Requirement for CAFOs. *Concentrated animal feeding operations (CAFO)*, as defined in Subsection B of this Section or designated in accordance with Subsection C of this Section, are point sources, subject to LPDES permitting requirements as provided in this Chapter. Once an animal feeding operation is defined as a CAFO for at least one type of animal, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. - C.3.b. …

D. Who shall seek coverage under an LPDES permit?

1. The owner or operator of a CAFO shall seek coverage under an LPDES permit if the CAFO discharges a regulated wastewater. Specifically, the CAFO owner or operator shall either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made a general permit available to the CAFO, the CAFO owner or operator shall submit an application for an individual permit to the state administrative authority.

2. Information to Submit with Permit Application or Notice of Intent. An application for an individual permit shall include the information specified in LAC 33:IX.2501. A notice of intent for a general permit shall include the information specified in LAC 33:IX.2501 and 2515.

E. - E.2. …

F. By when shall the owner or operator of a CAFO have an NPDES permit if it discharges?

1. A CAFO shall be covered by a permit at the time that it discharges.

G. Reserved.

H. - H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:1463 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:819 (May 2006), LR 33:2360 (November 2007), LR 35:648 (April 2009), amended by the Office of the Secretary, Legal Division, LR 39:3269 (December 2013).

Herman Robinson, CPM
Executive Counsel

1312#039

RULE

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Third-Party Projects (LAC 34:III.Chapter 4)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 40:1724, the Division of Administration, Office of Facility Planning and Control has amended Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control to adopt a new Rule: Chapter 4, Third-Party Projects. This Rule expounds R.S. 17:3361 and the requirement of certain oversight of the construction of improvements on college or university properties which are leased to a non-profit organization. This Rule shall provide for the elucidation of the role of the Office of Facility Planning and Control during design and construction oversight of third-party projects.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part III. Facility Planning and Control
Chapter 4. Third-Party Projects
§401. Preface

A. R.S. 17:3361 provides for the following.

1. Each higher education management board may grant leases of any portion or portions of grounds or campus of any college or university or other immovable property under its supervision and management. These leases may be granted for a term not to exceed 99 years for each lease.

2. Said leases may be granted to any of the following:

a. an organized national or local college or university fraternity or sorority;

b. a religious, quasi-religious, or benevolent organization or other nonprofit corporation or association;

c. a military organization under the supervision of the state of Louisiana or of the United States of America;

d. a public body;

e. a private entity, provided such private entity shall be obligated under the terms of the lease agreement to construct improvements on the leased premises which will further the educational, scientific, research, or public service functions of the board and provided further that the private entity has been selected pursuant to a competitive bid or competitive proposal process.

3. Each board may permit the lessees to erect, construct, and maintain thereon fraternity or sorority houses or homes, student centers, facilities for religious worship and instruction, armories, storehouses, and other structures. Contracts entered into by private lessee for the performance of work on the leased premises or the erection, construction, or maintenance of improvements on the leased premises shall not constitute public works contracts.

4. The land leased to any fraternity, sorority, religious of quasi-religious organization shall not exceed 1 acre.

5. The architectural plans for each house or other structure shall be approved by the board prior to any construction taking place on the leased grounds.

6. The provisions of R.S. 39:1643 and R.S. 41:1211-1225 shall not be applicable to agreements authorized by R.S. 17:3361.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:3270 (December 2013).

§403. Oversight

A. Any construction in conjunction with a lease to a nonprofit corporation or association in accordance with R.S. 17:3361 resulting in the construction of improvements on or after January 1, 2007, on college or university property shall be considered a third-party project and shall be subject to design and construction oversight by the Division of Administration, Office of Facility Planning and Control.

B. Design and construction oversight:

1. the right to review and approve plans and specifications prior to the commencement of construction and to require such changes as may be necessary to comply with applicable building codes, space standards, where appropriate, and standards ensuring quality of construction; and

2. the right to conduct periodic inspections during construction to ensure that work is being performed in compliance with the approved plans and specifications.

C. The Division of Administration, Office of Facility Planning and Control will not serve as the project manager for third-party projects.

D. R.S. 17:3361 requires that each higher education management board adopt, subject to approval of the Division of Administration, Office of Facility Planning and Control and in consultation with the Board of Regents, proposed space standards and quality standards and exceptions thereto on or before January 1, 2007. These adopted space and construction quality standards are made part of this Rule.

E. Buildings constructed or renovated as third-party projects, being located on property under the jurisdiction of the state of Louisiana, shall be subject to the Louisiana building code (LAC 34:III.131).

F. Any third-party project involving a building having a state ID number, or anticipated being assigned a state ID number in the future, shall be subject to the requirements of the commercial building energy conservation code in accordance with R.S. 40:1730.41-49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:3270 (December 2013).

§405. Role During Design Phases

A. A university or college shall notify the director of the Office of Facility Planning and Control in writing of any new third-party project, prior to beginning design of the project. A preliminary program indicating the scope and budget of the project shall be submitted to the Division of Administration, Office of Facility Planning and Control.

B. At a minimum, plans and specifications, along with a complete building code analysis, shall be submitted to the Office of Facility Planning and Control at the program completion phase and at the final construction documents or bid documents phase. However, submittal of plans and

specifications to the Office of Facility Planning and Control may be required at schematic design and design development phases, based on a schedule to be established at the beginning of the project as required in fulfilling the Office of Facility Planning and Control's right to design oversight. Prior to the issuance of any contract for construction or any authorization to proceed with construction, final construction documents shall be submitted to and be found to meet the requirements of the Department of Public Safety and Corrections, Office of State Fire Marshal, the Department of Health and Hospitals and the Division of Administration, Office of Facility Planning and Control, as well as complying with the laws and regulations of any other regulatory authorities having jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:3270 (December 2013).

§407. Role During Construction Phase

A. The Office of Facility Planning and Control shall be advised of date, time and location of pre-design conference and monthly progress meetings for all third-party projects.

B. The Office of Facility Planning and Control reserves the right to conduct periodic inspections during construction of all third-party projects.

C. Copies of all change orders shall be submitted to the Office of Facility Planning and Control. Change orders will be reviewed pursuant to LAC 34:III.403.

D. Upon certification by the designer of record that the construction has been completed in accordance with the plans and specifications and is in compliance with the Louisiana building code (LAC 34:III.131) and upon receipt of documentation of the final inspection and approval for occupancy by the Office of State Fire Marshal, the Office of Facility Planning and Control will issue a finding of no objection to the building being occupied for its intended purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:3271 (December 2013).

John L. Davis
Director

1312#005

RULE

Office of the Governor
Division of Administration
Office of State Purchasing

Information Technology Software Includes Software as a Service (LAC 34:I.5505)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 39:197(1) the Office of the Governor, Division of Administration, Office of State Purchasing, has amended §5505, to include software as a service within the definition of information technology software.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part I. Purchasing
Subpart 3. Equipment-Lease-Purchase Program
Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance

§5505. Procedures for the Procurement of Information Technology Software

A. - D.4. …

E. For the purposes of this Section, software includes software as a service (SaaS). Software as a service means access to a computer software program that is owned, delivered, and managed remotely by an external service provider on a pay-per-use basis whereby the software is a business application based on a single set of common code and data definitions and the application data is owned and updated by the state or state entity. A formally signed service level agreement (SLA) is required as part of every SaaS engagement with use of pre-printed external service provider SLA's being prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77 (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:2378 (November 2003), LR 39:32710 (December 2013)

Jan B. Cassidy
Assistant Commissioner

1312#016

RULE

Office of the Governor
Division of Administration
Office of State Uniform Payroll

Employee Payroll Benefits Committee (EPBC)
(LAC 4:III.103)

In accordance with R.S. 42:455, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll has amended the Rule regarding payroll deductions for state employees. The purpose of the amendment is to clarify the membership on the Employee Payroll Benefits Committee and the process for filling vacancies.

Title 4
ADMINISTRATION
Part III. Payroll
Chapter 1. Payroll Deductions

§103. Employee Payroll Benefits Committee (EPBC)

A. A committee comprised of 12 nominated and three ex-officio state employees of the departments of the executive branch of state government or the Office of the Governor, as defined under R.S. 36:4, and may include a representative from higher education, established by the Commissioner of Administration to fulfill the requirements

of §106 and §112 of this Rule. Ex-officio members shall be: director or assistant director of OSUP, a designee of the Commissioner of Insurance, and a representative from the Office of Group Benefits. Ex-officio members shall be non-voting members.

B. The EPBC was established in 1996 by the Uniform Payroll System Payroll Steering Committee. Original members served staggered terms as follows:

1. 4 members, one-year term;
2. 4 members, two-year term; and
3. 4 members, three-year term.

C. Successive committee appointments shall be for a period of three years beginning July 1.

D. There may be more than one committee member per department of the executive branch of state government or the Office of the Governor, as defined under R.S. 36:4.

E. Prior to May 1, annually, the EPBC through OSUP shall submit, to the Commissioner of Administration, nominees for each of the four vacancies which will occur each year.

F. The Commissioner of Administration shall affirm or reject the nominations and submit such to OSUP prior to June 1 each year.

G. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more, shall be filled by appointment by the Commissioner of Administration.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the Commissioner of Administration.

2. The Commissioner of Administration shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), LR 32:85 (January 2006), LR 39:3271 (December 2013).

Monique Appeaning
Assistant Commissioner

1312#054

RULE

Office of the Governor
Division of Administration
Office of State Uniform Payroll

State Combined Charitable Campaign Deduction
(LAC 4:III.Chapter 11)

In accordance with R.S. 42:456.A.(3), notwithstanding any other provision of law to the contrary, the Division of Administration, Office of State Uniform Payroll has adopted the following rules regarding a State Combined Charitable Campaign.

The purpose of the Rule is to further the implementation of a payroll deduction plan for efficient, long term collection of employee contributions to qualified nonprofit community health and human services charities coordinated and payable through the Louisiana Association of United Ways as the Principal Combined Fundraising Organization for the solicitation, receipt and distribution of such contributions among qualifying charitable organizations. By establishing a uniform policy towards charitable fundraising efforts among state employees, the state hopes to encourage generosity in voluntary financial support for the charitable services of the qualified organizations in the communities where the employees live and work.

The intent of these regulations is to provide a convenient channel through which state employees may contribute to the efforts of the qualifying nonprofit community health and human services charities providing services in the community or region where the employees live and work, minimize both the disruption of the state work place and the costs to taxpayers that charitable fundraising may entail, and ensure that recipient charities are fiscally responsible in the uses of the monies so raised.

Title 4
ADMINISTRATION
Part III. Payroll
Chapter 11. State Combined Charitable Campaign (SCCC) Deductions

§1101. Definitions

Agency Number—three digit identifier representing a single agency in the LaGov HCM payroll system which serves as a key for processing and reporting.

Campaign Period—the period of solicitation by the Principal Combined Fundraising Organization when contributions will be obtained for the State Combined Charitable Campaign. The campaign period will occur annually in the fall.

Campaign Coordinator—the state employee designated by the agency/department head to attend coordinator training, secure campaign materials and support from the Principal Combined Fundraising Organization, prepare and send communications as required to support the annual campaign at his/her location, arrange for a presentation to employees, turn in pledge forms to the Principal Combined Fundraising Organization, maintain confidentiality of pledge information, and complete the campaign evaluation form for their agency.

Charitable Organization—a volunteer, not-for-profit organization under section 501(c)(3) of the Internal Revenue Code which provides health or human services to individuals.

Charity List—a comprehensive listing of charitable organizations approved to be included in the materials prepared for and/or presented in the State Combined Charitable Campaign.

Contribution—biweekly deduction authorized by an employee during the campaign period.

Data File—the body of information documented by copies of correspondence between the Office of State Uniform Payroll, the Principal Combined Fundraising Organization, departments/agencies, charitable organizations, and state employees relative to employee solicitation, participation, contributions, and service from the Principal Combined Fundraising Organization.

Deduction—any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency—as referenced herein shall be any one of the major departments of the executive branch of

state government or any subdivision thereof as defined under R.S. 36:4.

Division of Administration (DOA)—the Louisiana state agency under the executive department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Guidelines for Review—as referenced herein shall mean the set of criteria established for the annual evaluation process.

LaGov Human Capital Management Payroll System (LaGov HCM)—the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Memorandum of Understanding (MOU)—written agreement between the Principal Combined Fundraising Organization and the Division of Administration through the Office of State Uniform Payroll to ensure compliance with rules and other necessary requirements in carrying out annual campaigns.

Office of State Uniform Payroll (OSUP)—the section within the Division of Administration primarily responsible for the administration of the rules governing state employee payroll deductions.

Principal Combined Fundraising Organization (PCFO)—the organization which conducts and manages an annual campaign among state employees on behalf of participating charitable organizations. The Louisiana Association of United Ways (LAUW) shall serve as the principal combined fundraising organization for the Louisiana State Combined Charitable Campaign.

SED-7—as referenced herein shall be the standard form, State Combined Charitable Campaign Application, required to be submitted with any application.

SED-8—as referenced herein shall mean the standard State Combined Charitable Campaign Deduction Authorization form developed by the Division of Administration, Office of State Uniform Payroll used to process employee charitable organization deductions.

State Combined Charitable Campaign (SCCC)—the annual combined charitable fundraising program established by law to receive and distribute voluntary payroll deduction contributions of state employees paid through the LaGov HCM payroll system. The State Combined Charitable Campaign shall be the only authorized payroll deduction charitable fundraising effort among state employees.

Substantial Local Presence—operations of at least 20 hours per week in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3272 (December 2013).

§1103. Deduction Rule Authority

A. OSUP is responsible for the administration of the rules governing state employee payroll deductions. Nonprofit community health and human services charity deductions that are authorized through OSUP are for all state employees and all state agencies of the executive branch of state government as defined under R.S. 36:4 who are paid through the central payroll system, LaGov HCM. The rules established hereunder do not create substantive rights in favor of any charitable organization or PCFO, nor do they create a cause of action in favor of any charitable organization or PCFO against or among themselves, or against the State, any participating agency, a campaign coordinator or any other employee, person or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3273 (December 2013).

§1105. Fees

A. Fees incurred as a result of the State Combined Charitable Campaign shall be handled in accordance with the procedures agreed upon by OSUP and the PCFO as outlined in the MOU.

1. The PCFO shall deduct all fees from the employee's contribution prior to distributing contributions to charitable organizations.

2. Disclosure of any and all fees shall be included on the standard State Combined Charitable Campaign Deduction form (SED-8) and included in campaign material, and displayed on any electronic enrollment site.

3. The PCFO shall provide OSUP with a breakdown of fees withheld on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3273 (December 2013).

§1107. Charitable Organization Application Process

A. Applications must be submitted annually and will be accepted by OSUP between January and March 1 each year. The standard application form (SED-7) can be obtained from OSUP.

1. Applications must meet all requirements established by OSUP and the PCFO as outlined in §1111.

2. Charitable organizations that do not provide all documentation and/or do not meet all eligibility requirements established by OSUP and the PCFO will not be considered. Charitable organizations who do not meet all requirements will receive written notification from OSUP of denial of their application.

B. OSUP and the PCFO will conduct a review of all applications submitted for compliance and eligibility as stated in this rule. OSUP/PCFO will maintain basic guidelines for review to follow in the conduct of the annual review of charitable organizations. These guidelines are on file at OSUP/PCFO and are available upon request.

C. On or before April 30 annually, OSUP shall provide to the commissioner of administration, or his designee, recommended actions relative to charitable organization compliance with all other provisions of this rule.

D. On or before May 31 annually, the commissioner of administration, or his designee, shall advise OSUP whether recommendations have been accepted or denied.

E. On or before June 30 annually, OSUP will:

1. notify each charitable organization whether their application was approved or denied. Approval of charitable organization in no way constitutes endorsement or certification of the charitable organization by the state;

2. notify the PCFO of the charitable organizations approved to be included on the charity list for the upcoming campaign period.

F. Any charitable organization that was included in the preceding charitable campaign must complete a new application annually in order to be included in the next annual charitable campaign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3273 (December 2013).

§1109. Definition of Community Health and Human Services Charities

A. Defined as federations or agencies whose primary mission is to directly benefit human beings in a non-discriminatory manner, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped.

B. Services must consist of assistance, care, research, or education in the fields of human health or social adjustment or rehabilitation; relief for victims of natural disasters and other emergencies; or assistance to those who are impoverished and in need of food, clothing, shelter, and basic human welfare services.

C. A community health and human services charity may serve Louisiana as a whole, or may serve a targeted geographic area of Louisiana, or may target certain demographics of Louisiana residents with health or medical needs unique or predominating in the defined population.

D. Specific exemptions may be made from time to time for charities that primarily serve the poor overseas in the aftermath of natural or man-made disasters and emergencies.

E. The following are specifically excluded from consideration as health and human services charities.

1. Educational Charities: organizations whose primary purpose is the direct or indirect financial support of a particular institution or affiliated institutions of primary, secondary or higher education. An education-affiliated charity that otherwise meets the definition of a community health and human services charity, which provides those services and which does not divert public support to the financial support of a particular institution or affiliated institutions of primary, secondary or higher eduation, shall not be excluded as a community health and human services charity by virtue of its educational affiliation.

2. Cultural Charities: organizations whose primary purpose is cultural, including those which concern themselves primarily with promoting, assisting, identifying, teaching or empowering individuals, groups, families, or communities to accept, identify with, participate in or learn about particular non-health related characteristics or activities of a state, country or region, or an ethnic, national, religious, ancestry or cultural group, including but not limited to: race, national origin, religion, ancestry, sexual orientation, practices, age, art, crafts, architecture, beliefs, industry, music, dance, sports, literature, food, history or fashion associated with such a group.

3. Religious Charities: organizations whose primary purpose is religious, including those which concern themselves primarily with promoting, assisting or empowering a particular religion or belief system, or which promotes, assists or empowers individuals, groups, families or communities to accept, identify with, participate in, worship under, convert to or learn about the particular beliefs, teachings or practices of a religion. A religious-affiliated charity that otherwise meets the definition of a community health and human services charity, which provides those services, and which does not divert public support to religious purposes or activities, shall not be excluded as a community health and human services charity by virtue of its religious affiliation.

4. Political Purpose Charities: organizations whose primary purpose is political, including those which concern themselves primarily with promoting, assisting or empowering a particular political party, set of political beliefs, set of political ideas, or endorsing a particular candidate or set of candidates or political party, or which promotes, assists or empowers individuals, groups, families and communities to participate in the political process, vote, organize to vote or to support political candidates, or to accept, identify with or learn about the political views of any candidate, group, party or organization. An organization which otherwise meets the definition of a community health and human services charity but which has diverted public support to a political purpose, may be excluded from consideration as a health and human services charity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3274 (December 2013).

§1111. Charitable Organization Requirements and Responsibilities

A. Charitable organization applicants shall meet and maintain the following:

1. provide an annual application as set forth in §1107 of this Rule;

2. comply with R.S. 42:456(A)(3):

a. be a health and human services charity as defined in §1109 of this Rule;

b. not be organized for cultural, educational, religious, or political purposes, as defined in §1109 of this Rule;

3. comply with the following admissions criteria as outlined on the official application form (SED-7):

a. certify compliance with the USA Patriot Act of 2001;

b. certify the organization operates without discrimination in regard to all persons and comply with all requirements of law and regulations respecting non-discrimination and equal employment opportunities with respect to its officers, staff, employees and volunteers;

c. provide documentation that the IRS recognizes the charitable organization as a public charity under §501(c)(3) of the Internal Revenue Code;

d. ensure that an equivalent amount collected as contributions will be spent to provide services and benefits primarily to the citizens of Louisiana unless an exception is granted per §1109.D of this Rule, and certify the dollar value of health and human services provided in the state of Louisiana during the previous calendar year(s);

e. certify a substantial local presence within the state of Louisiana;

f. demonstrate that fundraising and administrative expenses represent no more than 25 percent of total support and revenue according to the submitted copy of its most recent IRS 990 form or a pro forma IRS 990 for organizations not required to file an IRS 990;

g. be registered and in good standing with the Louisiana secretary of state and submit proof of that registration;

h. be governed by a board of directors which meets regularly and whose members serve without compensation;

i. provide the organization's most recent annual budget, which must consist of a 12-month period;

j. provide the organization's most recent audited financial statements conducted by a CPA within the last 12 months at the time of the application;

k. indicate the regions served in Louisiana;

4. agree to pay a reasonable annual participation fee assessed by the PCFO and approved by OSUP;

5. solicitation of charitable donations through payroll deduction is only allowed during the annual campaign period, or other time periods approved by OSUP and the PCFO. All solicitation materials must be prepared and approved by OSUP and the PCFO;

6. provide all documentation and meet all deadlines and eligibility requirements established by the PCFO in coordination with OSUP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3274 (December 2013).

§1113. PCFO Requirements and Responsibilities

A. The PCFO shall:

1. enter into a MOU with the Division of Administration through the Office of State Uniform Payroll;

2. be registered and in good standing with the Louisiana secretary of state;

3. maintain all records as required by federal and state laws;

4. provide to OSUP annually and as requested, reports containing data as required by OSUP;

5. provide the projected campaign budget to OSUP annually for approval;

6. report the fee structure to OSUP for approval. Any changes in the fee structure must be approved by OSUP;

7. disclose to OSUP any and all fees that are associated with the oversight of the campaign period, enrolling charitable organizations in the campaign, accepting funds from the LaGov HCM payroll system on behalf of donor employees, and disbursement of these funds to the participating charitable organizations;

8. submit a report to OSUP of total dollars/number of deductions sent to each charitable organization on a frequency agreed upon, with an option to obtain employee detail as requested;

9. review applications submitted by charitable organizations, ensure applicants meet all requirements and provide recommendations to OSUP;

10. submit campaign materials to OSUP for review and approval prior to the annual campaign period;

11. print and supply annual campaign and publicity materials;

12. include a list of charities in campaign materials that are approved for payroll deduction;

13. ensure campaign materials include disclosure of all fees/administrative costs that will be deducted from contributions. The State of Louisiana shall not be liable for any fees/administrative costs charged in association with the SCCC. All fees and administrative costs shall be assessed in accordance with federal and state law, and shall be consistent with nationwide charitable giving standards;

14. oversee the annual campaign period solicitation;

15. ensure employee solicitations are conducted only during duty hours using methods that permit true voluntary giving and shall reserve to the individual the option of disclosing any gift or keeping it confidential;

16. disburse contributions to charitable organizations in accordance with employee deduction authorizations less any agreed upon fees;

17. maintain records that indicate employee choice of specific charitable organization selected for payroll deduction.

18. provide documentation for audit purposes within 30 days of notification by OSUP or other state entity;

19. ensure that payroll deductions are submitted using the standard State Combined Charitable Campaign Deduction Authorization form (SED-8) approved by OSUP and the PCFO for use by agencies/employees paid through the LaGov HCM payroll system or through other authorized electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3275 (December 2013).

§1115. Deduction Guidelines

A. Deductions must be authorized by employees on the approved deduction form (SED-8) or through other authorized electronic means.

B. An employee shall not make a designation to a charitable organization not listed in the official approved charitable organizations authorized for payroll deduction list.

C. An employee shall be allowed to make a designation to any charitable organization listed in the official approved charitable organizations authorized for payroll deduction list regardless of the region they live or work in.

D. No deduction will be taken in any pay period in which the employee's net pay, after all legal and previously authorized deductions, is insufficient to cover the portion of the employee's pledge which would normally be deducted. No adjustments will be made in subsequent periods to withhold any missed deductions.

E. An employee may cancel their deduction at any time. No refunds will be issued to employees for any amounts withheld from a previous pay period prior to cancellation.

F. Deductions will be withheld from employee's paychecks every payday and funds will be remitted to the PCFO by OSUP on a monthly basis via electronic funds transfer (EFT).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3275 (December 2013).

§1117. Department/Agency Responsibility

A. The department/agency shall:

1. designate a Campaign Coordinator;

2. provide time during normal working hours for volunteers to perform their assigned campaign responsibilities and for campaign presentations to all employees;

3. only accept the standard State Combined Charitable Campaign Deduction Authorization form (SED-8);

4. forward all SED-8 forms to the PCFO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3275 (December 2013).

§1119. Rule Transition

A. All existing United Way entities receiving payment through payroll deduction on the LaGov HCM payroll system on the effective date of this rule shall continue to receive payment separately from the PCFO until January 2015. Beginning January 2015 all payments will go through the PCFO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3276 (December 2013).

§1121. Removal of Charitable Organization from the SCCC for Cause

A. OSUP, in coordination with the Division of Administration's Commissioner's Office, may remove a charitable organization from the SCCC for violating the provisions of this rule, other applicable provisions of law, or any directive or instruction from OSUP.

B. OSUP will consider previous violations, harm to state employee confidence in the SCCC, and any other relevant factors in its decision to remove a charitable organization from the SCCC.

D. A charitable organization will be notified in writing of OSUP's intent to remove them from the current campaign and will have 10 business days from the date of the receipt of the notice to submit a written response.

E. OSUP's final decision will be communicated in writing to the charitable organization, with a copy being sent to the PCFO.

F. A charitable organization removed from the SCCC under any provision of this rule must demonstrate to the satisfaction of OSUP that they have taken corrective action to resolve the reason for removal and they have implemented reasonable and appropriate controls to ensure that the situation will not occur again prior to being allowed to participate in subsequent SCCCs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3276 (December 2013).

§1123. Appeal Process

A. Any charitable organization participating in the SCCC that is removed from the SCCC for any reason shall have the right to have that action reviewed by filing a written request for review with the commissioner of administration.

B. Any charitable organization filing an application to become a participating charitable organization in the annual SCCC that is subsequently denied from participating in the SCCC shall have the right to have that action reviewed by filing a written request for review with the commissioner of administration.

C. Written requests sent to the commissioner of administration must be:

1. filed within 10 days from the notice of removal / denial;

2. a written decision shall be rendered by the commissioner of administration on any request for review within 14 days of receipt of the written appeal;

D. the decision of the commissioner of administration shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3276 (December 2013).

Monique Appeaning
Assistant Commissioner

1312#055

RULE

Department of Health and Hospitals
Board of Medical Examiners

Exemption to Licensure; Out-of-State Physician Orders
(LAC 46:XLV.424)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, that the Louisiana State Board of Medical Examiners has adopted a new Rule, LAC 46:XLV.424. The Rule is set forth below.

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter I. License Issuance, Termination, Renewal, Reinstatement and Exemptions

§424. Exemption to Licensure; Out-of-State Physician Orders

A. Definitions. As used in this Section the following terms shall have the meanings specified.

Established Patient—a patient who is currently under the care of out-of-state physician for a diagnosed medical condition or complaint.

Out-of-state Physician—a physician who is duly licensed to practice medicine in any state or jurisdiction of the United States other than Louisiana.

Routine Diagnostic Testing—laboratory testing and radiologic studies, and such other diagnostic testing as the board may in its discretion determine to be routine upon written application, which is needed for the on-going evaluation or monitoring of the patient's condition or response to therapy.

State—any state or jurisdiction of the United States.

B. A license to practice medicine in this state shall not be required for routine diagnostic testing ordered by an out-of-state physician for an established patient provided:

1. the physician-patient relationship was initiated by an in-person, face-to-face visit in a state other than Louisiana where the out-of-state physician is duly licensed to practice medicine;

2. the order can be verified by the health care facility or provider to which or to whom it is presented. While verification need not occur in every instance, the order should be verified if:

a. the out-of-state physician or the institution from which the order was generated is unknown to the provider; or

b. there are other circumstances that would cause a prudent professional acting in the usual scope of practice to suspect non-compliance with the provisions of this Section; and

3. the results of such testing are provided directly to the ordering out-of-state physician;

C. The exemption provided by this Section shall not apply to an order of an out-of-state physician for:

1. any diagnostic test, study or evaluation other than routine diagnostic testing as defined in this Section;

2. testing of an individual who is not an established patient;

3. routine diagnostic testing of any new complaint or for any medical condition other than that for which an established patient was seen in an in-person, face-to-face visit with the out-of-state physician in another state;

4. the prescription, dispensation or administration of any drug, medication, substance or medical device;

5. screening studies or testing;

6. any therapeutic modality, treatment or care including but not limited to the:

a. treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's Rules; or

b. the treatment of obesity, as set forth in §§6901-6913 of the board's Rules.

D. Nothing in this Section shall require a health care facility or provider to recognize an order for routine diagnostic testing by an out-of-state physician.

E. An order issued by an out-of-state physician that does not comply with the requirements of Section is not a valid order. An out-of-state physician who violates the provisions or limitations of this Section shall be deemed to be engaged in the unauthorized practice of medicine in this state and subject to the penalties prescribed by R.S. 37:1286 and 1290.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1291.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3276 (December 2013).

Cecilia Mouton, M.D.
Executive Director

1312#031

RULE

Department of Health and Hospitals
Board of Medical Examiners

General, Licensure and Certification and Practice;
Polysomnographic Technologists and Technicians
(LAC 46:XLV.241-245, 3301-3355, 6301-6313)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Polysomnographic Practice Act, R.S. 37:2861-2870, that the Louisiana State Board of Medical Examiners has adopted rules respecting the general regulation, licensure, certification and practice of polysomnographic technologists and technicians, Title 46, (Professional And Occupational Standards), Part XLV (Medical Professions), Subpart 1 (General) Chapter 1 (Fees and Costs), Subchapter N, §§241-245, Subpart 2 (Licensure and Certification) Chapter 33, §§3301-3355 and Subpart 3 (Practice) Chapter 63, §§6301-6313. The Rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 1. General
Chapter 1. Fees and Costs
Subchapter N. Polysomnographic Technologists and Technicians Fees

§241. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the board's issuance of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3277 (December 2013).

§243. License and Permit

A. For processing an application for a license as a polysomnographic technologist a fee of $150 shall be payable to the board.

B. For processing an application for a permit as a polysomnographic technician a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3277 (December 2013).

§245. Renewal

A. For processing an application for annual renewal of the license of a polysomnographic technologist a fee of $75 shall be payable to the board.

B. For processing an application for renewal of the permit of a polysomnographic technician a fee of $50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3277 (December 2013).

Subpart 2. Licensure and Certification

Chapter 33. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions

§3301. Scope of Chapter

A. The rules of this Chapter provide for and govern the issuance of licenses and permits to practice polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013).

§3303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Advisory Committee on Polysomnography or the *committee*—the committee established in R.S. 37:2864.

Applicant—an individual who has applied to the board for a license or permit to practice polysomnographic technology in the state of Louisiana.

Application—a request directed to and received by the board, in a format approved by the board, for a license or permit to practice polysomnographic technology in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted therewith.

American Academy of Sleep Medicine or *AASM*—the national organization that establishes accreditation standards for sleep centers and sleep labs.

American Board of Sleep Medicine or *ABSM*—the national organization developed for the purpose of establishing and maintaining standards for sleep disorders medicine, which also offers the Sleep Technologist Registry Examination and issues the Registered Sleep Technologist credential.

Board—the Louisiana State Board of Medical Examiners, as established in R.S. 37:1263.

Board of Registered Polysomnographic Technologists or *BRPT*—the national credentialing agency for polysomnographic technologists, or its successor organization.

Commission on Accreditation of Allied Health Education Programs or *CAAHEP*—the national agency that reviews and accredits educational programs of allied health sciences for the purpose of establishing and maintaining national standards.

Direction and Supervision of a Physician—responsible direction and control by a physician for the proper performance of polysomnographic technology. Such direction and supervision shall not be construed to require the physical presence of the supervising physician provided that the physician is immediately available to furnish assistance and direction, either in person or by telephone or by electronic means, throughout the performance of the polysomnographic procedure or service.

Direct Supervision—supervision by a physician or a qualified health care provider currently licensed by the board, whose scope of practice includes polysomnography, who is present in the area where the procedure or service is being performed and is available to furnish assistance and direction throughout the procedure or service.

Good Moral Character—as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:2867 or Chapter 63 of these rules for the denial, suspension, or revocation of a license or permit to practice polysomnographic technology;

b. the applicant has not, prior to or in connection with his or her application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License or *Licensure*—the lawful authority to engage in the practice of polysomnographic technology in this state, as evidenced by a certificate duly issued by and under the official seal of the board.

Louisiana Polysomnographic Practice Act or the Act—R.S. 37:2861-2870 as may be amended.

Permit—the lawful authority to engage in the practice of polysomnographic technology in the state of Louisiana for a designated period of time, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to the issuance of a license or to permit renewal except as provided in these rules.

Physician—an individual licensed by the board to practice medicine in this state as evidenced by a current license duly issued by the board.

Polysomnography—the performance of sleep diagnostics in any setting or location under the direction and supervision of a physician who has performed a comprehensive clinical evaluation and on the basis of this evaluation has ordered the sleep diagnostic study.

Polysomnographic Technician or *Technician* or *Permit Technician*—an allied health professional who possesses a current permit duly issued by the board under this Chapter to practice polysomnographic technology under the direct supervision of a physician or a qualified allied health professional currently licensed by the board whose scope of practice includes polysomnography.

Polysomnographic Technologist or *Technologist*—an allied health professional who possesses a current license to practice polysomnographic technology issued by the board to perform both diagnostic and therapeutic polysomnograms under the direction and supervision of a physician.

Polysomnographic Technology—the allied health specialty practiced under the direction and supervision of a physician involving the attended monitoring and testing of individuals suffering from any sleep disorder as classified in the International Classification of Sleep Disorders. Such procedures include but are not limited to the following, conducted only upon the written prescription or verbal order

of a physician and under his or her direction and supervision:

a. application of electrodes and apparatus necessary to monitor and evaluate sleep disturbances, including positive airway pressure on spontaneously breathing patients and the application of devices which allow a physician to diagnose sleep disorders, which disorders include sleep breathing disorders, movement disorders, disorders of excessive somnolence, and physiologic impotence;

b. institution of any type of physiologic monitoring applicable to polysomnography;

c. initiation of treatment changes and testing techniques required for the implementation of polysomnographic protocols under the supervision and direction of a physician;

d. set-up of the positive air pressure equipment in the patient's home, instructions including use of the equipment and adjustment of the settings, exclusive of delivery and directions on turning the equipment on and off;

e. education of patients and their families about their sleep disorders and monitoring their progress in treatment of such disorders; and

f. provided, however, that:

i. other than an esophageal pressure monitoring probe, polysomnographic technology does not include the application or insertion of any device or appliance that extends into the trachea or esophagus or that attaches to an artificial airway; and

ii. if invasive ventilation is used during a titration study, a respiratory therapist or a physician shall be physically present.

Supervising Physician—a qualified physician who provides direction and supervision to an individual who is licensed, or direct supervision to one who holds a permit, to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013).

Subchapter B. Requirements and Qualifications for Licensure

§3305. Scope of Chapter

A. The rules of this Subchapter govern the qualifications and requirements prerequisite to issuance of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3279 (December 2013).

§3307. Qualifications for Polysomnographic Technologist License

A. To be eligible for a polysomnographic technologist license on or before July 17, 2017, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character as defined by this Chapter;

3. be a high school graduate or have the equivalent of a high school diploma;

4. have a current credential as a polysomnographic technologist which is granted on the basis of written examination by one of the entities identified in §3319 of this Chapter;

5. hold current certification in basic cardiac life support or cardiopulmonary resuscitation from a nationally recognized and accredited training organization;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States, duly issued by the Citizenship and Immigration Services of the United States, Office of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 C.F.R.);

7. satisfy the procedures and requirements for application and examination specified in Subchapters C and D of this Chapter; and

8. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

B. To be eligible for a polysomnographic technologist license after July 17, 2017, an applicant shall in addition to meeting the qualifications set forth in §3307.A:

1. be a graduate of a CAAHEP accredited education program in polysomnography; and

2. have passed a polysomnographic technology examination that is administered as a component of a certificate program approved by the board, which is accredited by the National Commission for Certifying Agencies, the American National Standards Institute or another national accrediting organization approved by the board.

C. The requirements of §3307.B apply only to new applicants after July 17, 2017. An applicant who was licensed before that date is eligible for license renewal or reinstatement based upon meeting the eligibility requirements in effect at the time the applicant's initial license was issued.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3279 (December 2013).

§3309. Qualifications for Licensure by Reciprocity

A. The board may issue a polysomnographic technologist license to an applicant who has relocated to this state and filed an application for licensure with the board provided the applicant holds a current, unrestricted license to practice as a polysomnographic technologist duly issued by the licensing authority of another state, the District of Columbia, or a territory of the United States, and meets and satisfies all of the qualifications, procedures and requirements for licensure specified by §3307 of this Subchapter.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure on the basis of reciprocity shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3279 (December 2013).

Subchapter C. Application

§3311. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for a license or permit to practice polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3313. Application for License or Permit; Procedure

A. Application for license or a permit must be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for a license or a permit shall include:

1. proof documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. one recent photograph of the applicant;

3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

4. criminal background record information;

5. the name and contact information of each current employer, intended employer and supervising physician, if known;

6. payment of the applicable fee provided in Chapter 1 of these rules; and

7. such other information and documentation as the board may require.

D. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may reject or refuse to consider any application which is not complete in every detail. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3315. Effect of Application

A. The submission of an application for a license or a permit to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of polysomnographic technology, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for a license or a permit to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for a license or a permit to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the polysomnography licensing authority of any state, a national credentialing agency(s) accepted by the board for polysomnographic technologists; the Federal Drug Enforcement Agency; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

Subchapter D. Examination

§3317. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure as a polysomnographic technologist in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3319. Designation of Examination

A. The examinations accepted by the board for licensing a polysomnographic technologist are the credentialing examination for certification as a registered polysomnographic technologist administered by the BRPT, the registered sleep technologist examination administered by the ABSM, or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3321. Restriction, Limitation on Examinations

A. An applicant who fails the examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and/or clinical training required for licensure

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3323. Passing Score; Reporting of Examination Score

A. An applicant will be deemed to have successfully passed an examination accepted by the board if he or she attains a score equivalent to that required by the testing organization as a passing score.

B. Applicants for licensure shall request the testing organization to notify the board of the number of examination attempts and results according to the procedures for such notification established by the organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

Subchapter E. Licensure Issuance, Termination, Renewal, Reinstatement and Permits

§3325. Scope of Chapter

A. The rules of this Subchapter govern the issuance, expiration, renewal and reinstatement of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3327. Issuance of Licensure

A. If the qualifications, requirements, and procedures prescribed or incorporated by this Chapter are met to the satisfaction of the board, the board shall license the applicant to engage in the practice of polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3329. Expiration of License

A. A license, but not a permit, issued by the board under this Chapter shall expire and thereby become null, void and to no effect each year on the last day of the month in which the licensee was born.

B. A permit is not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3331. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format specified by the board;
2. evidence of current certification as a registered polysomnographic technologist by the BRPT or registered sleep technologist by the ABSM, or certification or registration by such other organization as the board may subsequently approve;
3. evidence of current certification in basic cardiac life support or cardiopulmonary resuscitation from a nationally recognized and accredited training organization;
4. documentation of not less than ten hours of approved continuing professional education within the past twelve months as prescribed by Subchapter G of these rules;
5. the renewal fee prescribed in Chapter 1 of these rules;
6. the name and contact information of each current employer and supervising physician; and
7. such other information or documentation as the board may require.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3333. Reinstatement of License

A. A license which is expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made in a format specified by the board and be accompanied by:

1. a biographical affidavit in a format provided by the board;
2. a recent photograph of the applicant;
3. evidence of current certification as a polysomnographic technologist by the BRPT or as a sleep technologist by the ABSM or such other certifying entity as the board may subsequently approve;
4. evidence of current certification in basic cardiac life support or cardiopulmonary resuscitation from a nationally recognized and accredited training organization;
5. proof of ten hours of approved continuing professional education for each year that the license has lapsed or expired, as set forth in Subchapter G of this Chapter;
6. such other information and documentation as the board may require to evidence qualification for licensure; and
7. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:
   a. if the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee;

b. if the application for reinstatement is made more than two years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

C. An applicant who has not been licensed to practice as a polysomnographic technologist or engaged in such practice in any state for more than five years immediately prior to the date of the application shall, within such five year period, have been re-credentialed by the successful passage of the examination required for initial licensure, or the examination for re-certification, in accordance with requirements for examination specified in Subchapter D of this Chapter, including but not limited to the restriction and limitation on examinations set forth in §3321 of these rules. Such an applicant shall not be required to furnish evidence of continuing professional education as otherwise required by §3333.B.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for an original license may be refused by the board as specified in R.S. 37:2867 or in Chapter 63 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3335. Polysomnographic Technician Permit

A. The board may issue a polysomnographic technician permit to an individual who has made application to the board for such permit. To be eligible for a polysomnographic technician permit an applicant shall:

1. meet and satisfy all of the qualifications, procedures and requirements for licensure specified by §3307.A.1-6 of this Chapter, save for current certification as a registered polysomnographic technologist by the BRPT or registered sleep technologist by the ABSM on the basis of written examination;

2. have:

a. passed the (entry-level) certification examination offered by the BRPT; or

b. completed an accredited CAAHEP education program in polysomnography;

3. satisfy the procedures and requirements for application specified in Subchapter C of this Chapter; and

4. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

B. Permit Term. A permit issued under this Section shall be effective for twelve months and shall expire and become null and void on the earlier:

1. twelve months from the date of issuance; or

2. the date on which the applicant meets and satisfies the qualifications, procedures and requirements of §3307 of this Chapter.

C. Renewal. A permit issued under this Section shall not be renewed beyond its original term unless the applicant failed to take or failed to pass the BRPT or ABSM examination with the original permit term. A permit that is renewed under this Section shall be effective for twelve months and shall expire and become null and void on the earlier of:

a. twelve months from the date of issuance; or

b. the date on which the applicant meets and satisfies the qualifications, procedures and requirements of §3307 of this Chapter.

D. A permit that is renewed under §3335C. of this Section is not renewable. Exceptions may be made at the sole discretion of the board upon a request submitted in writing at least thirty days prior to the expiration of the permit, identifying a life-threatening or another significant medical condition or other extenuating circumstance deemed acceptable to the board. The maximum term of any such exception shall not exceed 12 months and its issuance may be conditioned upon any terms that the board may deem appropriate.

E. The burden of satisfying the board as to the qualifications and eligibility of the applicant for a permit shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3282 (December 2013).

§3337. Reserved.

Subchapter F. Advisory Committee on Polysomnography

§3339. Organization and Authority

A. The Advisory Committee on Polysomnography (the "committee"), as established, appointed and organized pursuant to R.S. 37:2864 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded to it by the Act;

2. function and meet as prescribed by the Act;

3. upon request, assist the board in examining the qualifications and credentials of applicants for polysomnographic technology licensure and make recommendations thereon to the board;

4. monitor and report to the board on the status and development of CAAHEP accredited polysomnography training programs in this state;

5. advise the board on issues affecting the licensing and regulation of polysmnographic technology in this state;

6. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules, regulations and policies respecting polysomnography licensure and practice;

7. serve as a liaison between and among the board, individuals engaged in the practice of polysomnographic technology in this state and professional organizations;

8. perform such other functions and provide such additional advice and recommendations as may be requested by the board;

9. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by this Subchapter G of this Chapter, including the authority and responsibility to:

a. provide recommendations to the board on approval of any additional organizations or entities as sponsors of qualifying continuing professional education programs pursuant to §3347.B of these rules;

b. request and obtain from continuing professional education sponsoring organizations any information necessary to properly evaluate and make informed recommendations to the board relative to the appropriateness of the educational program;

c. request and obtain from applicants for renewal of licensure referred by the board, such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide recommendations for which the committee is responsible; and

10. receive reimbursement for travel expenses incurred during attendance at committee meetings and for other expenses when specifically authorized by the board.

C. In discharging the functions authorized under this Section the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members relative to individual applicants, licensees or permit holders pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3282 (December 2013).

Subchapter G. Continuing Professional Education

§3341. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for the annual renewal or reinstatement of licensure as a polysomnographic technologist and prescribe the procedures applicable to satisfaction and documentation thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3283 (December 2013).

§3343. Continuing Professional Education Requirement

A. Subject to the exceptions and waiver specified in this Subchapter, to be eligible for the renewal of a polysomnograhic technologist license an applicant shall, within each year that he or she holds a license, evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of continuing education credits ("CEC") sanctioned by the organizations identified in this Subchapter, or their successors.

B. To be eligible for the reinstatement of a polysomnographic technologist license an applicant shall evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of approved CEC for each year that the license has lapsed or expired.

C. For purposes of this Section, one CEC is the equivalent to 1 hour of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3283 (December 2013).

§3345. Qualifying Continuing Professional Education

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of polysomnographic technology;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of polysomnographic technology;

3. be presented by individuals whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation. Copies of credentials shall be available to the committee or the board upon request;

4. provide a system or method for verification of attendance or course completion;

5. be a minimum of one continuous hour in length;

6. allow participants an opportunity to ask questions on the content presented; and

7. include assessment and evaluation mechanisms to insure that participants have achieved a specified level of performance and to provide for evaluation of instructional methods, facilities and resources used.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing education credits under these rules:

1. any program not meeting the standards prescribed by this Section;

2. any independent/home study, correspondence, on-line, lecture, workshop, program or seminar that is not approved or sponsored by the AASM, the American Association of Sleep Technologists (AAST) or the American Association of Respiratory Care (AARC);

3. holding office in professional or governmental organizations, agencies, or committees;

4. participation in case conferences, informal presentations, or in-service activities;

5. giving or authorizing verbal or written presentations, seminars, articles, or grant applications;

6. certification in basic cardiac life support or cardiopulmonary resuscitation; and

7. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3283 (December 2013).

§3347. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3345.A of this Subchapter shall be deemed approved for purposes of satisfying the continuing education requirement under this Subchapter, if sponsored or offered by the AASM, AAST, BRPT or the AARC.

B. Upon the recommendation of the committee or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as approved continuing education under §3345 or §3347 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3349. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing education requirement prescribed by these rules shall accompany a polysomnographic technologist's renewal application in a format specified by the board.

B. A polysomnographic technologist shall maintain a record of certification and satisfaction of attendance for at least five years from the date of completion of the continuing professional education program.

C. The board shall randomly select for audit no fewer than three percent of licensees each year for an audit of continuing education activities. In addition, the board may audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, may be referred to the committee for its evaluation and recommendations.

E. If the committee or the board determines that a continuing professional education program or activity certified by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of continuing education credits claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the recommendation by written request delivered to the board within ten days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3351. Failure to Satisfy Continuing Professional Education Requirement

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement prescribed by this Subchapter shall be given written notice of such failure by the board, mailed to the applicant's mailing address on file with the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing professional education requirement;

2. the applicant is exempt from such requirement pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirement was occasioned by disability, illness, or other good cause as may be determined by the board.

B. Any licensee or applicant who falsely certifies attendance and/or completion of the required continuing professional education requirement will be subject to disciplinary action by the board.

C. The license of a polysomnographic technologist which has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirement of these rules may be reinstated by the board upon the applicant's satisfaction of the requirements and procedures for reinstatement of licensure, set forth in §3333 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3353. Exceptions to Continuing Professional Education Requirement

A. The continuing professional education requirement prescribed by this Subchapter for renewal of licensure shall not be applicable to a polysomnographic technologist:

1. employed exclusively by, or at an institution operated by the United States Government; or

2. who has within the twelve months prior to the date of renewal, been credentialed or re-credentialed as a polysomnographic technologist on the basis of examination as specified in §3319 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3355. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a polysomnographic technologist who makes a written request for such waiver to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirement. Any licensed polysomnographic technologist submitting a continuing professional education waiver request is required to do so on or before the date specified by this Chapter for the renewal of the licensee's license. Any request received by the board past the date for licensure renewal will not be considered for

waiver but, rather, in accordance with the provisions of §3351 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

Subpart 3. Practice

Chapter 63. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions

§6301. Scope of Chapter

A. The rules of this Chapter govern the practice of polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

§6303. General Definitions

A. The definitions set forth in Chapter 33 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

Subchapter B. Unauthorized Practice, Exemptions, and Designation of License or Permit

§6305. Unauthorized Practice

A. No individual shall engage or attempt to engage in the practice of polysomographic technology in this state, unless he or she holds a current license or a permit to practice polysomnographic technology issued by the board under Chapter 33 of these rules.

B. An individual who does not hold a current polysomnographic technologist license issued by the board, and or whose license has been suspended or revoked, shall not use in conjunction with his or her name the words "Licensed Polysomnographic Technologist," "LPSGT," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technologist or that the services provided by such individual constitute polysomnographic technology.

C. An individual who does not hold a current polysomnographic technician permit issued by the board, or whose permit has been suspended or revoked, shall not use in conjunction with his or her name the words "Polysomnographic Technician," "Permit Technician," or "PSGT-E," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technician or that the services provided by such individual constitute polysomnographic technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 39:3285 (December 2013).

§6307. Exemptions

A. The prohibitions of §6305A of this Chapter shall not apply to an individual:

1. acting under and within a license issued by any licensing agency of the state of Louisiana, whose scope of practice includes polysomnography;

2. employed as a polysomnographic technologist by the United States Government when acting exclusively within the course and scope of such employment;

3. currently licensed by the board to practice respiratory therapy; or

4. pursuing a course of study in a CAAHEP accredited polysomnographic technology education program from performing a polysomnography procedure or service, provided:

a. the polysomnographic procedure or service is within the individual's course of study; and

b. the polysomnographic procedure or service is performed under the direct supervision of a physician or a qualified allied health professional currently licensed by the board whose scope of practice includes polysomnography.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 39:3285 (December 2013).

§6309. Designation of License or Permit

A. Every polysomnographic technologist and polysomnographic technician shall wear an identification badge when engaged in the practice of polysomnographic technology. The identification badge shall be clearly visible at all times and shall bear the first name or initial, the full surname and the term reflecting the individual's level of licensure.

B. A polysomnographic technologist may use the words "Polysomnographic Technologist" or "Licensed Polysomnographic Technologist" or the letters "PSGT" or "LPSGT" in connection with his or her name to denote his or her license.

C. A polysomnographic technician may use the words "Polysomnographic Technician" "Permit Technician" or the letters "PSGT-E" in connection with his or her name to denote his or her permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 39:3285 (December 2013).

Subchapter C. Mutual Obligations

§6311. Mutual Obligations and Responsibilities

A. A supervising physician, polysomnographic technologist and polysomnographic technician shall bear equal and reciprocal obligations to:

1. comply with reasonable requests by the board for personal appearances, information and documentation relative to the functions, activities, and performance of polysomnographic technology by a polysomnographic technologist, polysomnographic technician and/or supervising physician;

2. insure that each individual to whom a polysomnographic technologist or polysomnographic technician provides polysomnography procedures or services is expressly advised and understands that a polysomnographic technologist or polysomnographic technician is not a physician;

3. insure that all procedures or services performed by a polysomnographic technologist or a polysomnographic technician are properly documented in the patient's record and accurately reflect the services rendered. These entries shall contain, at a minimum:

a. an intake record:

b. the reasons for the visit;

c. the name of the polysomnographic technologist or polysomnographic technician who provides the services;

d. the name of the supervising physician for the services;

e. a summary of any verbal orders taken by polysomnographic technologist or polysomnographic technician; and

f. polysomnography observation notes on each service provided.

B. The polysomnographic technologist, polysomnographic technician, and their supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter, and to immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

Subchapter D. Grounds for Administrative Action

§6313. Causes for Disciplinary Action

A. The board may refuse to issue, renew or reinstate, or may suspend, revoke, or impose probationary conditions and restrictions on the holder of any license or permit to practice polysomnographic technology in this state or on an applicant, if the applicant, licensee or permit holder has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

B. As used herein and in R.S. 37:2867.A, "unprofessional conduct" by an applicant, licensee or holder of a permit to practice polysomnographic technology in this state shall mean and include, but not be limited to:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a misdemeanor under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered, arising out of the practice of polysomnographic technology;

3. fraud, deceit, misrepresentation, or concealment of material facts in procuring or attempting to procure a license or permit to engage in the practice of polysomnographic technology;

4. providing false testimony before the board or providing false sworn information to the board;

5. the habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. cognitive or clinical incompetency;

7. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of the practice of polysomnographic technology in this state;

8. interdiction by due process of law;

9. failing to successfully complete the continuing professional education requirement for polysomnographic technology as provided in Chapter 33, Subchapter G of these rules;

10. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

11. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

12. knowingly performing any act which in any way assists an individual who does not hold a license or permit to practice polysomnographic technology in this state to engage in the practice of polysomnographic technology, or having a professional connection with or lending one's name to an illegal practitioner;

13. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to a sleep center, laboratory or other entity for polysomnographic technology services or procedures;

14. inability to practice polysomnographic technology with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

15. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the physical and/or mental fitness and ability of an applicant, licensee or permit holder to practice polysomnographic technology with reasonable skill or safety;

16. failure to respond or to provide information or items within the time requested by the board's staff, or to respond to a subpoena issued by the board, or to complete an evaluation within the time designated by the board;

17. practicing polysomnographic technology other than on the written prescription or verbal order of a physician and under his or her direction or supervision, or performing, attempting to perform, or permitting anyone else to perform any procedure not authorized by licensure or permit;

18. intentional violation of any federal or state law, parish or municipal ordinance, the state sanitary code, or rule or regulation relative to any contagious or infectious disease;

19. violation of the code of ethics adopted and published by the BRPT;

20. the refusal of the licensing authority of another state to issue or renew a license or permit to practice polysomnographic technology in that state, or the revocation, suspension, or other restriction imposed on a license or permit issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license or permit issued by another state when criminal or administrative charges are pending or threatened against the holder of such license or permit;

21. violating or helping someone else violate any rule and regulation of the board, or any provision of the Act, as may be amended, R.S. 37:2861-2870.

C. A license or permit that has been suspended by the board shall be subject to expiration during suspension.

D. The denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon the holder of a licensee or permit, or an applicant, may be entered into by consent of the individual and the board, or may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act, R.S. 49:951 et seq., and the applicable rules and regulations of the board.

E. The board may reinstate any license or permit suspended or revoked hereunder, or restore to unrestricted status any license or permit subject to probationary conditions or restrictions by the board upon payment, if applicable, of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board; provided, however, an application for reinstatement of a license that has been revoked by the board shall not be made or considered by the board prior to the expiration of one year following the date on which the board's order of revocation became final. The board shall have discretion to accept or reject such an application but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3286 (December 2013).

Cecilia Mouton, M.D.
Executive Director

1312#032

RULE

Department of Health and Hospitals
Board of Medical Examiners

Licensure and Certification; Qualifications for Medical Licensure by Reciprocity (LAC 46:XLV.353)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, that the Louisiana State Board of Medical Examiners (board) has amended its rules governing qualifications for medical licensure by reciprocity, LAC 46:XLV.353. The amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter E. Licensure by Reciprocity
§353. Qualifications for Medical Licensure by Reciprocity

A. - C. ...

D. An applicant who possesses all of the qualifications and requirements for licensure by reciprocity specified by §353.A, save for having taken and passed a written certification or recertification examination, SPEX or COMVEX-USA, as described in §353.A and §353.B within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if the applicant is certified by a specialty board recognized by the ABMS or AOA, has been primarily engaged in the practice of medicine in such specialty for the four years immediately preceding the submission of an application, and attests in a form prescribed by the board that applicant's practice in this state will be limited to the applicant's specialty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272, and 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001), LR 31:1583 (July 2005), LR 37:338 (January 2011), LR 39:3287 (December 2013).

Cecilia Mouton, M.D.
Executive Director

1312#030

RULE

Department of Health and Hospitals
Board of Medical Examiners

Physician Practice; Collaborative Drug Therapy Management (LAC 46:XLV.Chapter 74)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, that the Louisiana State Board of Medical Examiners (Board) has amended its rules governing physician collaborative drug therapy management, LAC 46XLV.7403 et seq. The amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 74. Collaborative Drug Therapy Management
Subchapter A. General Provisions
§7403. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

* * *

Collaborative Drug Therapy Advisory Committee or Advisory Committee—the Louisiana State Board of Medical Examiners' Collaborative Drug Therapy Advisory Committee, as constituted under §7417 of this Chapter.

Collaborative Drug Therapy Management or *Drug Therapy Management*—that practice in which a pharmacist voluntarily agrees with a physician to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a patient specific

written order set. Drug therapy management shall be limited to:

a. - c. …

d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under an order set, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis; and

e. providing disease or condition specific patient education and counseling.

* * *

Disease Specific Drug Therapy—a specific drug(s) prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for the treatment of the disease or condition.

* * *

Order Set—a written set of directives or instructions containing each of the components specified by §7429 of this Chapter for collaborative drug therapy management of disease specific drug therapy for a specific patient. The order set shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

Pharmacist—for purposes of this Chapter an individual who has a current, unrestricted license to practice pharmacy in this state duly issued by the Louisiana Board of Pharmacy, who is approved by the Louisiana Board of Pharmacy to engage in collaborative practice for a specific disease or condition based on the pharmacist's training and experience.

* * *

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his/her patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1639 (August 2007), amended LR 39:3287 (December 2013).

Subchapter C. Registration

§7407. Eligibility for Registration

A. - A.1. …

2. be actively engaged in the clinical practice of medicine and the provision of patient care in this state in the particular field of medicine in which collaborative drug therapy management is to take place; and

3. not be employed by or serve as an independent contractor to a pharmacist, pharmacy, or pharmaceutical company, or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, the exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law or the board's rules on the physician.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), amended LR 39:3288 (December 2013).

§7409. Registration Procedure

A. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), amended LR 39:3288 (December 2013).

§7411. Original Application; Issuance of Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), repealed LR 39:3288 (December 2013).

§7413. Notice of Intent to Collaborate

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), repealed LR 39:3288 (December 2013).

§7415. Expiration of Registration; Renewal

A. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a physician's medical license unless renewed by a physician by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a physician's renewal application for medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), amended LR 39:3288 (December 2013).

Subchapter D. Collaborative Drug Therapy Advisory Committee

§7419. Composition; Appointment

A. - B. …

C. Each member of the advisory committee shall be appointed by the board from among a list of one or more qualified nominees for each position submitted to the board. Accompanying each nominee shall be a personal resume or curriculum vitae for the individual. In the event a designating entity does not submit nominees within 90 days of the board's request the position or vacancy may be filled by a physician or pharmacist designated by the board. Each member of the advisory committee shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment. With the exception of the member designated by the Louisiana Board of Pharmacy, who shall serve at the pleasure of that board, all members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Appointments to the advisory committee shall be effective

when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the month following the date of appointment.

D. The advisory committee shall meet not less than once each calendar year, or more frequently as may be deemed necessary or appropriate by a quorum of the advisory committee or by the board. The presence of four members shall constitute a quorum. The advisory committee shall elect from among its members a chairperson, a vice-chairperson and a secretary. The chair or in the absence or unavailability of the chair the vice-chair, shall call, designate the date, time and place of, and preside at meetings of the advisory committee. The secretary shall record or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), amended LR 39:3288 (December 2013).

§7421. Duties and Responsibilities

A. The advisory committee is authorized by the board to assist by:

1. providing advice and recommendations to the board respecting the modification, amendment, and supplementation of its rules concerning physicians who engage in collaborative drug therapy management;

2. serving as a liaison between and among the board, physicians and pharmacists who engage in collaborative drug therapy management; and

3. identifying and recommending to the board acceptable certificate programs and other advanced training or programs in the areas of practice covered by collaborative drug therapy management.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007), amended LR 39:3289 (December 2013).

Subchapter E. Standards of Practice

§7423. Authority, Responsibility and Limitations of Collaborative Drug Therapy Management

A. A physician may only engage in collaborative drug therapy management with a pharmacist in accordance with a patient specific, drug specific, disease or condition specific order set satisfying the requirements of §7429 of this Chapter.

B. A physician engaged in collaborative drug therapy management shall:

1. …

2. establish and maintain a physician-patient relationship with each patient subject to the collaborative drug therapy management;

3. be geographically located so that the physician, or a back-up physician, is able to be physically present daily to provide medical care to a patient subject to collaborative drug therapy management;

4. receive on a scheduled basis no less than every three months, a status report on the patient including, but not limited to any problem, complication or other issues relating to patient non-compliance with drug therapy management. This requirement may be met by entering the information in the patient's medical record; and

5. …

C. A physician shall not engage in collaborative drug therapy management with a non-pharmacist or with any pharmacist who is not approved by the Louisiana State Board of Pharmacy to engage in collaborative practice for the specific disease or condition subject to collaboration, based on the pharmacist's training and experience.

D. Collaborative drug therapy management shall only be utilized for *Disease Specific Drug Therapy* as defined in §7403 of this Chapter.

E. The scope of the collaborative drug therapy management shall not include:

1. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease or condition specific order set based on a face-to-face visit with the patient;

2. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the order set;

3. the management of controlled substances or drugs of concern; or

4. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007), amended LR 39:3289 (December 2013).

§7425. Informed Consent

A. - B.3. …

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007), amended LR 39:3289 (December 2013).

§7427. Collaborative Drug Therapy Management Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007), repealed LR 39:3289 (December 2013).

§7429. Order Sets

A. An order set shall be utilized for each patient to be managed by collaborative drug therapy management. The order set shall incorporate whatever patient specific variations the physician may deem necessary and shall adhere to generally accepted standards of care. A copy of the order set shall be:

1. provided to the collaborating pharmacist; and

2. made part of the patient's medical record.

B. The order set shall identify, at a minimum:

1. - 11. …

C. Every order set utilized for collaborative drug therapy management of a patient shall be reviewed annually by the physician, or more frequently as such physician deems necessary, to address patient needs and to insure compliance with the requirements of this Chapter. The physician's signature and date of review shall be noted on the order set and maintained by the physician in accordance with Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007), amended LR 39:3289 (December 2013).

§7431. Administration of Vaccines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007), repealed LR 39:3290 (December 2013).

§7433. Additional Refills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), repealed LR 39:3290 (December 2013).

§7435. Reporting Obligations and Responsibilities

A. A physician engaged in collaborative drug therapy management shall:

1. annually report, as a condition to the renewal of that physician's license, whether or not and the extent to which the physician is engaged in collaborative drug therapy management and such other information as the board may request; and

2. within 15 days of the occurrence or discovery notify the board in writing of complications or errors that are, in the physician's opinion, directly related to drug therapy mismanagement; and

3. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of a physician or pharmacist engaged in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), amended LR 39:3290 (December 2013).

§7437. Records

A. Included in the medical record on a patient subject to collaborative drug therapy management shall be a copy of:

1. the prescription or order implementing drug therapy management and any subsequent orders or order sets modifying the therapy;

2. documentation of physician annual review, as well as the quarterly periodic reports required by §7423B.4 of this Chapter;

3. - 5. …

B. A physician engaged in drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a list of all patients subject to collaborative drug therapy management, a copy of any order sets and such other records or documentation as may be requested by the board to assess a physician's compliance with the requirements of this Chapter, the Act or other applicable rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), amended LR 39:3290 (December 2013).

Cecilia Mouton, M.D.
Executive Director

1312#027

RULE

Department of Health and Hospitals
Board of Medical Examiners

Physician Practice; Dispensation of Medications
(LAC 46:XLV.6513)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, the Louisiana State Board of Medical Examiners (Board) has amended its Rules governing dispensation of medications, LAC 46:XLV.6513, to add Subsection E. The amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 65. Dispensation of Medications
Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician for all medication, including but not limited to controlled substances and drugs of concern, a physician shall, as of the date of the application:

A.1. - D. ...

E. To be eligible for registration as a dispensing physician for all medication except controlled substances and drugs of concern, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;

2. have successfully completed a graduate medical education training program approved by the board;

3. successfully complete on-line or other training offered by the board respecting its dispensing rules; and

4. not be deemed ineligible for registration as a dispensing physician for any of the causes set forth in §6513.B-D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:1249 (July 1999), LR 28:2352 (November 2002), LR 39:3290 (December 2013).

Cecilia Mouton, M.D.
Executive Director

1312#029

RULE

Department of Health and Hospitals
Board of Medical Examiners

Restriction, Limitation on Examinations;
Additional Requirements
(LAC 46:XLV.1935)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270 and the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, that the Louisiana State Board of Medical Examiners (board) has amended its rules governing the restriction and limitation on the number of examination attempts for occupational therapy licensure, LAC 46XLV.1935.A. The amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 19. Occupational Therapists and Occupational Therapy Assistants
Subchapter D. Examination
§1935. Restriction, Limitation on Examinations; Additional Requirements

A. An applicant who fails the examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3291 (December 2013).

Cecilia Mouton, M.D.
Executive Director

1312#028

RULE

Department of Health and Hospitals
Board of Pharmacy

Collaborative Drug Therapy Management
(LAC 46:LIII.523)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby amends §523 of its Rules, for the purpose of simplifying the recordkeeping and reducing the administrative burden for those pharmacists engaging in collaborative drug therapy management activities.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 5. Pharmacists
§523. Collaborative Drug Therapy Management

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

Board—the Louisiana Board of Pharmacy.

Collaborative Drug Therapy Management or *Drug Therapy Management*—that practice in which a pharmacist voluntarily agrees with a physician to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a patient specific written order set. Drug therapy management shall be limited to:

a. monitoring and modifying a disease specific drug therapy;

b. collecting and reviewing patient history;

c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure, and respiration;

d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under an order set, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis; and

e. providing disease or condition specific patient education and counseling.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such statute or regulations.

Disease Specific Drug Therapy—a specific drug or drugs prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for treatment of the diseases or condition.

Drug—

a. any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or animals;

b. any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or other animals; or

c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified in accordance with procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Pharmacist—for purposes of this Section, an individual who has a current unrestricted license to practice pharmacy in this state duly licensed by the board, who is approved by the board to engage in collaborative practice for a specific disease or condition based on the pharmacist's training and experience.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the Louisiana State Board of Medical Examiners.

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental or bodily ailment of his patient.

Order Set—a written set of directives or instructions containing each of the components specified elsewhere in this Section for collaborative drug therapy management of disease specific drug therapy for a specific patient. The order set shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

B. Registration

1. Eligibility

a. No pharmacist shall engage in collaborative drug therapy management in this state until registered with the board in accordance with this Section. To be eligible for registration, a pharmacist shall, as of the date of the application:

i. possess a current, unrestricted license to practice pharmacy issued by the board and not be the subject of a pending investigation or complaint by the board or by the pharmacy licensing authority of any other state or jurisdiction;

ii. be actively engaged in the practice of pharmacy in this state and the provision of pharmacist care similar to the activities anticipated in the collaborative drug therapy management agreement.

b. A pharmacist shall be deemed ineligible for registration of collaborative drug therapy management who:

i. does not possess the qualifications prescribed by §523.B.1.a;

ii. has voluntarily surrendered or had suspended, revoked, or restricted his controlled dangerous substances license, permit, or registration (state or federal);

iii. has had a pharmacy license suspended, revoked, placed on probation or restricted in any manner by the board or by the pharmacy licensing authority of any other state or jurisdiction;

iv. has had an application for pharmacist licensure rejected or denied; or

v. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

c. The board may, in its discretion, waive the limitations referenced in Subparagraph B.1.b of this Section on a case-by-case basis.

d. The board may deny registration to an otherwise eligible pharmacist for any of the causes enumerated in R.S. 37:1241.A, or any other violation of the provisions of the Pharmacy Practice Act or the board's rules.

e. The burden of satisfying the board as to the eligibility of a pharmacist for registration to engage in collaborative drug therapy management shall be upon the pharmacist. A pharmacist shall not be deemed to possess such qualifications unless and until the pharmacist demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

2. Application and Issuance

a. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board. Application forms and instructions may be obtained from the board's website or by contacting the board's office.

b. An application for registration to engage in collaborative drug therapy management shall include:

i. the pharmacist's full name, license number, mailing address of record, and emergency contact information;

ii. the nature of the collaborative drug therapy management activities contemplated, i.e., the disease or condition proposed for management;

iii. a description of the pharmacist's professional education that qualifies him to engage in collaborative drug therapy management activities described in the application;

iv. proof documented in a form satisfactory to the board that the pharmacist possesses the qualifications set forth in this Section; and

v. such other information and documentation as the board may require to evidence qualification for registration.

c. The board may reject or refuse to consider any application for registration which is not complete in every detail required by the board. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application as a condition to consideration.

d. A pharmacist seeking registration to engage in collaborative drug therapy management shall be required to appear before the board or its designee if the board has questions concerning the nature or scope of the pharmacist's application, finds discrepancies in the application, or for other good cause as determined by the board.

e. When all the qualifications, requirements, and procedures of this Section are met to the satisfaction of the board, the board shall approve and register a pharmacist to engage in collaborative drug therapy management. Registration of authority to engage in collaborative drug therapy management shall not be effective until the pharmacist receives notification of approval from the board.

f. Although a pharmacist shall notify the board each time he intends to engage in collaborative drug therapy management with a physician other than the physician identified in the pharmacist's original application, registration with the board is only required once. The board shall maintain a list of pharmacists who are registered to engage in collaborative drug therapy management.

g. Each pharmacist registered to engage in collaborative drug therapy management shall be responsible for updating the board within 10 days in the event of any change in the information recorded in the original application.

3. Expiration of Registration; Renewal

a. A pharmacist's registration to engage in collaborative drug therapy management with a physician shall terminate and become void, null and without effect upon the earlier of:

i. death of either the pharmacist or physician;

ii. loss of license of the pharmacist;

iii. disciplinary action limiting the ability of the pharmacist to enter into collaborative drug therapy management;

iv. notification to the board that the pharmacist has withdrawn from collaborative drug therapy management;

v. a finding by the board of any of the causes that would render a pharmacist ineligible for registration; or

vi. expiration of a pharmacist's license or registration to engage in collaborative drug therapy management for failure to timely renew such license or registration.

b. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a pharmacist's license unless renewed by the pharmacist by completing the application form supplied by the board. An application for registration renewal shall be made part of and/or accompany a pharmacist's renewal application for pharmacist licensure.

c. The timely submission of an application for renewal of registration shall operate to continue the expiring registration in effect pending renewal of registration or other final action by the board on such application for renewal.

C. Advisory Committee. The Collaborative Drug Therapy Management Advisory Committee, constituted as provided for in LAC 46:XLV.7417, shall assist the Board of Medical Examiners and the Board of Pharmacy on matters relative to collaborative drug therapy management. The President of the Board of Pharmacy shall appoint a pharmacist to serve on the committee, and said pharmacist shall serve at the pleasure of the Board of Pharmacy.

D. Standards of Practice

1. Authority, Responsibility, and Limitations of Collaborative Drug Therapy Management

a. A pharmacist registered with the board under this Section may engage in collaborative drug therapy management with a physician in accordance with a patient specific, drug specific, disease specific order set satisfying the requirements of this Section.

b. A pharmacist engaged in collaborative drug therapy management shall:

i. retain professional responsibility to his patient for the management of their drug therapy;

ii. establish and maintain a pharmacist-patient relationship with each patient subject to collaborative drug therapy management;

iii. be geographically located to be physically present to provide pharmacist care to a patient subject to collaborative drug therapy management;

iv. provide on a scheduled basis no less than every three months, a status report on the patient, including but not limited to, any problem, complication, or other issues relating to patient non-compliance with drug therapy management. This requirement may be met by entering the information in the patient's medical record.; and

v. be available through direct telecommunication for consultation, assistance, and direction.

c. A pharmacist's registration to engage in collaborative drug therapy management with a physician is personal to the pharmacist. A pharmacist registered to engage in drug therapy management shall not allow another pharmacist not so registered or any other individual to exercise the authority conferred by such registration.

d. Collaborative drug therapy management shall only be utilized for disease specific drug therapy as defined in this Section.

e. The scope of the collaborative drug therapy management shall not include:

i. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease or condition specific order set based on a face-to-face visit with the patient;

ii. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the order set;

iii. the management of controlled substances or drugs of concern; or

iv. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

2. Informed Consent

a. A pharmacist shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

b. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to collaborative drug therapy management shall be:

i. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the pharmacist and physician;

ii. informed he may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient or pharmacist-patient relationship; and

iii. provided written disclosure of any contractual or financial arrangement with any other party that may impact one of the party's decision to participate in the agreement.

c. All services provided shall be performed in a setting which insures patient privacy and confidentiality.

3. Order Sets

a. A separate order set shall be written for each patient to be managed by collaborative drug therapy management. A copy of each order set shall be:

i. provided to the collaborating physician and pharmacist; and

ii. made part of the patient's pharmacy record.

b. A physician shall develop a patient specific order set for a particular patient or utilize a standard written protocol order set , incorporating what patient specific deviations, if any, the physician may deem necessary or appropriate for such patient. In either event, an order set for disease specific drug therapy shall adhere to generally accepted standards of care and shall identify, at a minimum:

i. the pharmacist, the physician, and telephone number and other contact information for each;

ii. the patient's name, address, gender, date of birth, and telephone number;

iii. the disease or condition to be managed;

iv. the disease specific drug or drugs to be utilized;

v. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;

vi. the specific responsibilities of the pharmacist and physician;

vii. the procedures, criteria, or plan the pharmacist is required to follow in connection with drug therapy management;

viii. the specific laboratory test or tests, if any, directly related to drug therapy management the physician authorizes the pharmacist to order and evaluate;

ix. the reporting and documentation requirements of the pharmacist and physician respecting the patient and schedule by which such are to take place;

x. the conditions and events upon which the pharmacist and physician are required to notify one another; and

xi. procedures to accommodate immediate consultation by telephone or direct telecommunication with, between, or among the pharmacist, physician, and the patient.

c. Each order set utilized for collaborative drug therapy management of a patient shall be reviewed annually by the collaborating physician, or more frequently as such physician deems necessary, to address patient needs and to insure compliance with the requirements of this Section. The physician's signature and date of review shall be noted on the order set and maintained by the pharmacist in accordance with this Section.

4. Reporting Obligations and Responsibilities

a. A pharmacist engaged in collaborative drug therapy management shall report annually, as a condition to the renewal of his registration, whether or not and the extent to which the pharmacist is engaged in collaborative drug therapy management and such other information as the board may request.

b. A pharmacist engaged in collaborative drug therapy management shall comply with reasonable requests by the board for personal appearances or information relative to the functions, activities, and performance of a pharmacist or physician engaged in collaborative drug therapy management.

5. Records

a. The following information shall be included in the pharmacy's record of a patient subject to collaborative drug therapy management:

i. the prescription or order implementing collaborative drug therapy management;

ii. the order set applicable to the patient evidencing documentation of the physician's annual review;

iii. documentation of all activities performed by the pharmacist;

iv. consultations and status reports by and between the pharmacist and physician; and

v. documentation of the patient's informed consent to collaborative drug therapy management.

b. A pharmacist registered to engage in collaborative drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a copy of any order sets and such other records or documentation as may be requested by the board to assess a pharmacist's compliance with requirements of this Section, the Pharmacy Practice Act, or other applicable board rules.

E. Sanctions

1. Action against Registration. For noncompliance with any of the provisions of this Section, the board may, in addition to or in lieu of administrative proceedings against a pharmacist's license, suspend or revoke a pharmacist's registration to engage in collaborative drug therapy management, or may impose such terms, conditions, or restrictions thereon as the board may deem necessary or appropriate.

2. Action against Pharmacist License. Any violation or failure to comply with the provisions of this Section shall be deemed a violation of R.S. 37:1241.A.1, as well as a violation of any other applicable provisions of R.S. 37:1241.A, providing cause for the board to take any of the actions permitted in R.S. 37:1241.A against the pharmacist's license.

3. Unauthorized Practice. Nothing in this Section shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Louisiana Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the Louisiana State Board of Medical Examiners, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Louisiana Medical Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1164(37)(b)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1125 (June 2007), amended LR 39:3291 (December 2013).

Malcolm J. Broussard
Executive Director

1312#026

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Low Income and Needy Care Collaboration
(LAC 50:V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.2503 and adopted §2713 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 25. Disproportionate Share Hospital Payment Methodologies
§2503. Disproportionate Share Hospital Qualifications

A. - A.5. ...

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.;

7. effective January 20, 2010, be a hospital participating in the Low Income and Needy Care Collaboration as defined in §2713.A.; and

8. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3294 (December 2013).

Chapter 27. Qualifying Hospitals

§2713. Low Income and Needy Care Collaboration

A. Definitions

Low Income and Needy Care Collaboration Agreement—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.

B. In order to qualify under this DSH category in any period, a hospital must be party to a Low Income and Needy Care Collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category,

shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

K. Effective for dates of service on or after January 1, 2011, all parties that participate in Medicaid DSH payments under this Section, either as a qualifying hospital by receipt of Medicaid DSH payments or as a state or local governmental entity funding Medicaid DSH payments, must meet the following conditions during the period of their participation:

1. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

2. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

3. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

4. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

5. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the Low Income and Needy Care Collaboration Agreement.

6. A participating hospital may not return any of the Medicaid DSH payments it receives under this Section to the governmental entity that provides the non-federal share of the Medicaid DSH payments.

7. A participating governmental entity may not receive any portion of the Medicaid DSH payments made to a participating hospital under this Section.

L. Each participant must certify that it complies with the requirements of §2713.K by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

M. Each qualifying hospital must submit a copy of its Low Income and Needy Care Collaboration Agreement to the department.

N. The Medicaid DSH payments authorized in LAC 50:V.Subpart 3 shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3295 (December 2013).

Kathy H. Kliebert
Secretary

1312#081

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Small Rural Hospitals
Qualifying Criteria
(LAC 50:V.2705)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.2705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 27. Qualifying Hospitals
§2705. Small-Rural Hospitals

A. Definitions

* * *

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. - l.i. …

ii. in a parish with a population of less than 15,800 as measured by the 2000 census; or

m. has no more than 60 hospital beds as of November 1, 2013 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 33,000;

ii. as measured by the 2000 census, in a parish with a population of less than 68,000; and

iii. within 3 miles of Jackson Barracks.

B. - 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 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3296 (December 2013).

Kathy H. Kliebert
Secretary

1312#082

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Greater New Orleans Community
Health Connection Waiver
Eligibility and Reimbursement Methodology Changes
(LAC 50:XXII.6303 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXII.6303 and 6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXII. 1115 Demonstration Waivers
Subpart 7. Greater New Orleans Community Health Connection Waiver
Chapter 63. Eligibility
§6303. Recipient Qualifications

A. - A.5. …

6. have family income up to 100 percent of the federal poverty level; and

A.7. - B.7. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:820 (March 2012), LR 39:3297 (December 2013).

Chapter 69. Reimbursement
§6903. Reimbursement Methodology Payments

A. - B. …

C. Effective for dates of service on or after January 1, 2014, the department shall make the following payment reductions in the GNOCHC Waiver.

1. The bundled payment rate for primary care encounters shall be reduced from $235.51 to $205. Behavioral health encounters will continue to be reimbursed at the current rates in effect on December 31, 2013.

2. Infrastructure investment payments shall be eliminated.

3. Year-end supplemental payments, which proportionately redistribute any remaining balance of the annual program budget amongst all providers, shall be eliminated.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:822 (March 2012), LR 39:3297 (December 2013).

Kathy H. Kliebert
Secretary

1312#083

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.953)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended 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 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 V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§953. Acute Care Hospitals

A. - H.2. …

3. - 5. Reserved.

I. - I.2. …

3. - 5. Reserved.

J. - N.2.b. …

3. Effective for dates of service on or after January 1, 2011, all parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation.

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the low income and needy care collaboration agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its low income and needy care collaboration agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

O. - Q.1.…

R. - S. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 35:1896 (September 2009), LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3297 (December 2013).

Kathy H. Kliebert
Secretary

1312#084

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Disability Medicaid Program Termination
(LAC 50:III.2305)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2305. Disability Medicaid Program

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 34:878 (May 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3298 (December 2013).

Kathy H. Kliebert
Secretary

1312#085

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Income Disregards for Pregnant Women

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed the provisions of the June 20, 2003 uncodified Rule governing income disregards for low income pregnant women 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.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals the provisions of the June 20, 2003 Rule governing income disregards for low income pregnant women. As a result of the proposed Medicaid eligibility changes for January 2014, these income disregard provisions will no longer be applicable to the financial eligibility determination for Medicaid coverage of low income pregnant women in the LaMOMS Program.

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.

Kathy H. Kliebert
Secretary

1312#086

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility—LaMOMS Program
Eligibility Changes for Pregnant Women
(LAC 50:III.2315)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed and replaced the provisions of the December 20, 1984, December 20, 1988, April 20, 1990, July 20, 1990, May 20, 1996, July 20, 1996, and June 20, 2003 Rules governing services for Medicaid eligible pregnant women, and adopted LAC 50:III.2315 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2315. LaMOMS Program

A. Pursuant to the provisions of the Omnibus Budget Reconciliation Act of 1986, the Department of Health and Hospitals, Bureau of Health Services Financing shall provide health care coverage through the LaMOMS Program to Medicaid eligible pregnant women with low income under the Medicaid state plan.

B. Eligibility Requirements. Eligibility for LaMOMS coverage may begin at any time during a pregnancy, and as early as three months prior to the month of application. Eligibility cannot begin before the first month of pregnancy. The pregnant woman must be pregnant for each month of eligibility, except for the 60-day postpartum period.

C. Financial Eligibility. Effective January 1, 2014, the LaMOMS Program shall provide Medicaid coverage to pregnant women with family income up to 133 percent of the federal poverty level. For applicants with income above 133 percent of the federal poverty level, 5 percent of the federal poverty level shall be disregarded from their income.

1. Changes in income shall be disregarded during the period of pregnancy and for the 60-day postpartum period.

D. The LaMOMS program shall provide Medicaid coverage for:

1. prenatal care;
2. delivery;
3. conditions which may complicate the pregnancy; and
4. postpartum care up to 60 days after the pregnancy ends.

E. Certification Period. The LaMOMS certification period begins with the first month of eligibility and continues without interruption through the calendar month in which the 60-day postpartum period ends.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3299 (December 2013).

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.

Kathy H. Kliebert
Secretary

1312#087

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility—Medicaid Purchase Plan
Eligibility Changes (LAC 50:III.763, 765, and 2309)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed and replaced LAC 50:III.763-765 governing Workers with Disabilities, and adopted LAC 50:III.2309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 1. General Administration
Chapter 7. Medicaid Programs
§763. Workers with Disabilities

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 29:2399 (November 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3299 (December 2013).

§765. Recipient Eligibility

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 29:2399 (November 2003), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3299 (December 2013).

Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2309. Medicaid Purchase Plan [Formerly LAC 50:III.763-765]

A. Effective January 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented the Medicaid Purchase Plan Program for workers with disabilities under title XIX of the Social Security Act. The Medicaid Purchase Plan allows persons who meet the Social Security disability criteria to seek the employment services, vocational rehabilitation services, and other support services needed to obtain, regain or maintain employment, and reduce their independence on cash benefit programs.

B. Recipient Eligibility. Effective January 1, 2014, the Medicaid purchase plan shall cover workers with disabilities who meet the following criteria:

1. are employed;
2. are age 16 through age 64;
3. meet the Social Security Administration criteria for disability;
4. have net income less than 100 percent of the federal poverty level;
5. have countable resources (assets) less than $10,000;
   a. all life insurance policies, medical savings accounts, and retirement accounts shall be counted towards the resource limit; and
6. are enrolled in no-cost health insurance.

C. Spousal income and resources shall be counted towards the income and resource limits.

D. Effective January 1, 2014, buy-in premiums shall be eliminated from the Medicaid Purchase Plan 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 39:3299 (December 2013).

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.

Kathy H. Kliebert
Secretary

1312#088

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program—Physician Services
Reclassification of Optometry Services
(LAC 50:IX.15111 and 15113)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, adopted LAC 50:IX.15111 and amended LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services

§15111. General Provisions

A. The reimbursement rates for physician services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. The reimbursement rates shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Optometry Services

1. Effective October 1, 2012, eye care services rendered by a participating optometrist, within their scope of optometric practice, shall be classified and reimbursed under the Medicaid state plan as a mandatory physician service to the same extent, and according to the same standards as physicians who perform the same eye care services.

2. Recipients in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program are excluded from optometry service limits.

3. The Medicaid Program shall not provide reimbursement for eyeglasses provided to Medicaid recipients 21 years of age or older.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3300 (December 2013).

§15113. Reimbursement

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

a. preventive medicine evaluation and management;
b. immunizations;
c. family planning services; and
d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

a. prenatal evaluation and management; and
b. delivery services.

D. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80

percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

a. prenatal evaluation and management services;

b. preventive medicine evaluation and management services; and

c. obstetrical delivery services.

2. - 3.b. Repealed.

E. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. - 1.c. Repealed.

F. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare average sales price (ASP) allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.D-F shall be increased to the rates in §15113.D-F.

H. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);

2. vaginal delivery after previous cesarean (VBAC) delivery; and

3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when the service is rendered to recipients 16 years of age and older.

I. - I.3. ...

J. - J.4. Reserved.

K. ...

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 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:3300 (December 2013).

Kathy H. Kliebert
Secretary

1312#089

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program—Physician Services
Reimbursement Rate Reductions (LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services
§15113. Reimbursement

A. - H.3. ...

I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional services procedure (consult) codes 99241-99245 and 99251-99255 shall be discontinued;

2. cesarean delivery fees (procedure codes 59514-59515) shall be reduced to equal corresponding vaginal delivery fees (procedure codes 59409-59410); and

3. reimbursement for all other professional services procedure codes shall be reduced by 3.4 percent of the rates on file as of June 30, 2012.

J. - J.4. Reserved.

K. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3301 (December 2013).

Kathy H. Kliebert
Secretary

1312#090

RULE

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

Substance Abuse Services
Reimbursement Rate Reduction
(LAC 50:XXXIII.14701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.14701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 15. Substance Abuse Services
Chapter 147. Reimbursement
§14701. Reimbursement Methodology

A. ...

B. Effective for dates of service on or after July 1, 2012, the reimbursement rates for outpatient substance abuse services provided to children/adolescents shall be reduced by 1.44 percent of the rates in effect on June 30, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:3301 (December 2013).

Kathy H. Kliebert
Secretary

1312#091

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Targeted Case Management
Reimbursement Rate Reduction
(LAC 50:XV.10701)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart7. Targeted Case Management
Chapter 107. Reimbursement
§10701. Reimbursement

A. - F.1. …

G. Effective for dates of service on or after July 1, 2012, the reimbursement for case management services provided to the following targeted populations shall be reduced by 1.5 percent of the rates on file as of June 30, 2012:

1. participants in the Early and Periodic Screening, Diagnosis, and Treatment Program; and

2. individuals with developmental disabilities who participate in the new opportunities waiver.

H. - H.3.a. …

I. - J. Reserved.

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 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013).

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.

Kathy H. Kliebert
Secretary

1312#092

RULE

Department of Insurance
Office of the Commissioner

Companies in Hazardous Financial Condition
(LAC 37:XIII.Chapter 13)

Under the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11, and R.S. 22:2001 et seq., notice is hereby given that the Department of Insurance has amended Regulation 43. The purpose of the amendment it to update the current provisions of Regulation 43 to maintain consistency with the National Association of Insurance Commissioner's (NAIC) model regulation regarding the standards which the commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 13. Regulation 43—Companies in Hazardous Financial Condition
§1301. Purpose

A. The purpose of Regulation 43 is to set forth the standards which the commissioner of insurance ("commissioner") may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

B. Regulation 43 shall not be interpreted to limit the powers granted the commissioner by any laws or parts of laws of this state, nor shall Regulation 43 be interpreted to supersede any laws or parts of laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3302 (December 2013).

§1303. Definitions

A. As used in Regulation 43, the following terms shall have the respective meaning hereinafter set forth.

Control—as defined in R.S. 22:691.2(3).

Person—as defined in R.S. 22:691.2(7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3302 (December 2013).

§1305. Standards

A. The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to their policyholders, creditors, or the general public. The commissioner may consider:

1. adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

2. the National Association of Insurance Commissioners insurance regulatory information system and its other financial analysis solvency tools and reports;

3. …

4. the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

5. whether the insurer's operating loss in the last 13-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

6. whether the insurer's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than 20 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

7. whether a reinsurer, obligor or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations, and which in the opinion of the commissioner may affect the solvency of the insurer;

8. contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

9. whether any "person" in "control" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

10. - 14. …

15. whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice;

16. whether management persistently engages in material under reserving that results in adverse development;

17. whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

18. whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

19. whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the commissioner;

20. any other finding determined by the commissioner to be hazardous to the insurer's policyholders, creditors, or the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3303 (December 2013).

§1307. Commissioner's Authority

A. - A.1. …

2. make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates consistent with the NAIC Accounting Practices And Procedures Manual, state laws and regulations;

3. …

4. increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12 month period.

B. If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to its policyholders, creditors, or the general public, then the commissioner may, upon such determination, issue an order requiring the insurer to:

1. - 9. …

10. correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the commissioner.

11. provide a business plan to the commissioner in order to continue to transact business in the state.

12. notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the commissioner considers necessary to improve the financial condition of the insurer.

C. If the insurer is a foreign insurer the order issued by the commissioner may be limited to the extent provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3303 (December 2013).

§1309. Administrative Review

A. An insurer subject to an order under Subsection 1307.B may request an administrative hearing to review that order pursuant to R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3303 (December 2013).

§1311. Judicial Review

A. An insurer aggrieved by a final decision pursuant to an administrative hearing under R.S.22:2191 shall be entitled to judicial review in accordance with the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

B. Notwithstanding the provisions of Subsections 1309.A and 1311.A, nothing shall preclude the commissioner from initiating judicial proceedings in conservation, rehabilitation, or liquidation proceedings or any other delinquency proceedings, however designated under the laws of the state, regardless of whether the commissioner has previously initiated any regulatory action against the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3304 (December 2013).

§1313. Severability

A. If any Section or provision of Regulation 43 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 43 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the Sections and provisions of Regulation 43 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3304 (December 2013).

§1315. Effective Date

A. Regulation 43 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3304 (December 2013).

James J. Donelon
Commissioner

1312#051

RULE

Louisiana State University System
Louisiana State University Health Sciences Center
Louisiana Tumor Registry

Tumor Registry (LAC 48:V.Chapter 85)

Under the authority of Louisiana R.S. 40:1299.80 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the President of the Louisiana State University System has amended Chapter 85 to require the electronic transmission of all cancer reports as well as remote electronic access to relevant medical records where available; set a two-month deadline for reporting by non-hospital sources; require hospitals to identify new diagnoses among those aged less than 20 years old to the registry within one month; allow the registry to publish its annual report electronically on the LTR website only; update the address of the registry; and provide for related matters by supplanting Chapter 85 of Title 48 of the Louisiana Administrative Code in its entirety with the following.

Title 48
PUBLIC HEALTH—GENERAL
Part V. Preventive Health Services
Subpart 31. Louisiana Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

A. Louisiana R.S. 40:1299.80 et seq., established a "statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of cancer incidence, survival rates, possible causes of specific cancers, and other related aspects of cancer in Louisiana." In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, national and international cancer surveillance programs, health care providers and facilities, public health agencies, and research institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2786 (December 2009), LR 39:3304 (December 2013).

§8502. Background

A. In December 1971, President Richard Nixon signed the National Cancer Act (P.L. 92-218). As a result of this act, the Surveillance, Epidemiology and End Results (SEER) Program, a national cancer surveillance program within the National Cancer Institute, was established. Data on cancer incidence and survival were collected in selected states and regions, beginning with cases diagnosed on January 1, 1973. The importance of cancer registration was subsequently reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries within the CDC. Louisiana participates in both cancer surveillance programs.

B. Acts No. 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of health care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters.

C. Acts No. 1138 §2 of the 1995 Session transferred the Louisiana Tumor Registry program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the Louisiana State University Health Sciences Center at New Orleans.

D. Acts No. 197 of the 2001 Regular Legislative Session replaced "Secretary of the Department of Health and Hospitals" and "Secretary" with "President of the Louisiana State University System, or his designee" or "President" and replaced "office of public health in the Department of Health and Hospitals" with "office of the President." It also mandated the reporting of follow-up information and confirmed the ability of the LTR to release data to qualified researchers and other state cancer registries.

E. Acts No. 225 of the 2003 Regular Legislative Session added benign and borderline tumors of the brain and central nervous system to the reportablity list and authorized the LTR to cooperate with other designated national and international cancer surveillance programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2786 (December 2009), LR 39:3304 (December 2013).

§8503. Definitions

Confidential Data—shall include any information that pertains to an individual case, as ordinarily distinguished from group, aggregate, or tabular data. Statistical totals of "0" or "1" may be deemed confidential, case-specific data. Confidential, case-specific data include, but are not limited to, primary or potential personal identifiers. In addition, in research involving data contained in the National Center for Health Statistics database, statistical totals of 5 or less are also deemed confidential data and are suppressed unless prior written consent of all of the affected respondents has been obtained in accordance with 42 U.S.C. §242k(l); 5 U.S.C. §552(a); and http://www.cdc.gov/nchs/data/misc/staffmanual2004.pdf (p. 16).

Director—the director of the Louisiana Tumor Registry, who is appointed by the President of the Louisiana State University System.

Health Care Provider—every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(10), in the state of Louisiana, as well as out-of-state facilities and providers that diagnose and/or treat Louisiana residents.

Follow-Up Information—information that is used to document outcome and survival for all types of cancer. The information includes, but is not limited to, patient identifiers, treatment and recurrence, vital status, and date of last contact. If the patient is deceased, date of death and causes of death are included.

Louisiana Tumor Registry/LTR—the program in Louisiana State University System that administers a population-based statewide cancer registry.

Regional Tumor Registry—an organization that is contracted with the Louisiana Tumor Registry (LTR) to provide in its region such services as: screening all possible sources to identify reportable cases, abstracting required information on all reportable cases, obtaining current follow-up information, editing data, performing quality assurance programs, training personnel from hospitals and other reporting facilities, and furnishing electronic records of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009), LR 39:3305 (December 2013).

§8505. Responsibilities of Health Care Facilities and Providers

A. All hospitals, pathology laboratories, radiation centers, physicians, nursing homes, hospices, other licensed health care facilities and providers as defined in R.S. 40:1299.41(A)(10) shall report all reportable cases (see §8507.A) to the LTR, a public health authority. In addition, they shall provide information for all cancer-related studies conducted by the cancer registry program. Health care facilities and providers shall report cases regardless of whether the patient is a resident of Louisiana or of where the patient was originally diagnosed and/or treated. As needed for surveillance or cancer studies, the LTR shall have remote electronic access, where available, or physical access to all medical records and related diagnostic material.

B. The LTR is mandated to conduct cancer studies and may request additional information and diagnostic material in order to carry out these studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009), LR 39:3305 (December 2013).

§8507. Case Reporting

A. Reportable Cases. Any in situ or invasive neoplasm, as designated by the most recent edition of the *International Classification of Diseases for Oncology*, published by the World Health Organization, is considered a reportable diagnosis. In addition, benign and borderline tumors as well as other neoplasms mandated by the LTR or its funding agencies shall be considered reportable. The LTR may require the reporting of precursor lesions for special surveillance programs. Details are available at the LTR website.

B. Transmission and Format for Reporting

1. All reports are to be transmitted electronically.

2. Facilities without electronic medical records must submit hard copies.

3. The LTR will stipulate the format for reporting, the required codes, and the format for transmitting data by all hospitals, pathology laboratories, radiation centers,

physicians, nursing homes, hospices, and other licensed health care facilities and providers.

4. Diagnosis-related material shall be sent to the Louisiana Tumor Registry if requested.

C. Data Quality. Data must meet the quality standards defined by the LTR. Data submissions of unacceptable quality will be returned for correction and must be resubmitted as specified by the LTR. Adequate text must accompany all coded data items to ensure data quality.

D. Variables to be Reported

1. At a minimum, the reports from non-hospital reporting sources shall include the demographic, diagnostic, treatment, and follow-up information required by U.S. Public Law 102-151. Hospital-based reporters must use the standard variables and codes established by the North American Association of Central Cancer Registries. A complete list of data items is available on the LTR website. Additional variables may be requested as needed to carry out the full mandate of registry operations, including Louisiana-specific cancer studies and meeting the requirements of the LTR funding agencies.

E. Deadlines for Reporting

1. Hospitals must submit completed cancer abstracts within six months of diagnosis or first contact with the patient for that cancer.

2. Pathology laboratories, radiation centers, physicians, and other licensed health care facilities and providers, shall report cancer cases, as defined in §8507.A, within two months of diagnosis or of the facility's first contact with that patient for cancer.

3. Hospices and nursing homes shall identify cancer cases and provide hard copies of medical records as requested.

4. In addition, providers shall notify the LTR within one month if they diagnose any cancer patient under age 20 years old.

F. Failure to Report. If a facility fails to meet the deadline for reporting in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In such situations, the facility shall reimburse the Louisiana Tumor Registry or its contractor $45 per case or the actual cost of screening, abstracting, coding, and editing, whichever is greater.

G. Quality Assurance

1. Staff members from the central registry, the regional registries, and national cancer surveillance programs designated by the LTR shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

a. rescreening medical records to ensure that all reportable cases have been identified;

b. reabstracting the records of patients to ensure that all data have been abstracted and coded correctly.

2. Reporting facilities shall assist LTR staff by compiling a list of cancer patients in the format required by the LTR and by obtaining the necessary medical records.

H. Follow-Up. Current follow-up, as defined in §8503, is required for all cases. Health care facilities and providers will supply this information when requested.

I. External Linkages. LTR data may be linked with external databases in order to improve the accuracy and completeness of data or for research. All linkages shall be carried out in compliance with LTR confidentiality rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 0:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2787 (December 2009), LR 39:3305 (December 2013).

§8509. Confidentiality

A. R.S. 40:1299.85 and 1299.87 of Acts 1995, No. 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of patients, health care providers, and reporting facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability. They also specify the confidentiality requirements of the Louisiana Tumor Registry.

B. Louisiana Tumor Registry policies and procedures comply with the standards of the Health Insurance and Portability and Accountability Act (HIPAA). The Office of Civil Rights has determined that releases of confidential data to state-mandated cancer registries do not require patient consent, since the registries serve as public health authorities.

C. LTR Responsibilities. The president or his or her designee shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees, consultants, and contractors of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data" each year, and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

D. Protection of Reporting Sources. Health care providers and facilities that disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

E. Protection of Case-Specific Data Obtained by Special Morbidity and Mortality Studies and Other Research Studies

1. Louisiana R.S. 40:3.1(A) through (H) and R.S.40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for statistical, scientific and medical research purposes. This applies also to data procured by employees or agents of the Louisiana Tumor Registry or organizations, including public or private college universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies.

2. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or

compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2838 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009), LR 39:3306 (December 2013).

§8511. Release of Information

A. Confidentiality of Published Data

1. Reports published or presented by the Louisiana Tumor Registry shall include aggregate, not case-specific, data.

2. Information that would potentially identify a patient or a health care provider or facility shall not be disclosed, except to qualified investigators currently approved by both the LTR and the LSUHSC Institutional Review Board.

B. Diagnostic, Treatment, and Follow-Up Information. Diagnostic, treatment, and follow-up information about a patient shall be provided, if requested, to a physician or medical facility diagnosing or treating the case. Section 45 CFR 164.506 of the Health Information Portability and Accountability Act (HIPAA) allows such sharing of health information.

C. Collaboration with Federal and State Public Health Agencies and National and International Cancer Surveillance Programs.

1. The LTR is authorized to collaborate with the National Cancer Institute, the Centers for Disease Control and Prevention, and other national and international cancer surveillance programs designated by the LTR, including but not limited to the North American Association of Central Cancer Registries and the International Agency for Research on Cancer, in providing cancer data and participating in cancer studies.

2. In addition, the LTR shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer concerns and other cancer-related issues. LOPH requests for case-specific data will require annual approval by the Institutional Review Board of the Louisiana State University Health Sciences Center-New Orleans (LSUHSC-New Orleans). In addition, the LOPH must comply with LTR confidentiality standards, and reports written for public release using Registry data must be reviewed by the Registry in advance.

3. The use of Registry data by LOPH officials, who sign an annual agreement to maintain the confidentiality of registry data, shall be considered an in-house activity and shall be processed expeditiously.

D. Requests for Case-Specific LTR Incidence Data. Case-specific data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include information collected for special studies or other research projects.

1. The LTR reserves the right to prioritize its responses to data requests.

2. Requests from researchers for case-specific LTR incidence data, including data linkages, must be submitted in writing and shall be reviewed and approved by the LTR Data Release Committee following the established policies of the Louisiana Tumor Registry. A detailed description of the policies and procedures for requesting Registry data can be obtained from the LTR website. These established policies include, but are not limited to, the following requirements:

a. approval from the LSUHSC-New Orleans Institutional Review Board and compliance with the LSUHSC-New Orleans HIPAA research policy as well as approval from the researcher's Institutional Review Board and compliance with that institution's HIPAA research policy;

b. signature of the LTR "Agreement to Maintain Confidentiality of Data" by all investigators who will have access to the data, agreeing to adhere to the LTR confidentiality provisions and prohibiting the disclosure of LTR data in any civil, criminal, administrative, or other proceeding;

c. provision of a copy of the complete protocol for the project;

d. completion of all requirements listed in the document on the LTR website.;

e. notification of physician, if required, before contacting patients or their next-of-kin;

f. destruction or return of data once the research is completed.

2. LTR Data Release Committee. The research committee shall be coordinated by the director of the LTR or designee and may include, but not be limited to, the director of the LTR and a qualified LTR representative. The committee will verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific and ethical merit; that all appropriate confidentiality protections are in place; and that appropriate consent will be obtained.

E. Requests for Aggregate Data

1. Data requested by the Louisiana Office of Public Health for responding to concerns about threats to the public health shall receive priority in determining the order of processing requests.

2. Subject to the provisions of the Louisiana Public Records Act, R.S. 44:4.1 et seq., other requests for aggregate data shall be processed in the order of their receipt. The Registry shall respond to public requests in as timely a manner as resources permit, provided that these requests meet certain requirements in conformity with R.S.40:3.1(A) and (F) and R.S.40:1299.87(F) et seq.

3. Those requesting data may be asked to reimburse the LTR for actual costs for compiling and providing data. In no event shall the LTR be obligated to perform original work to create data not currently in existence.

4. The parish (county) is the smallest geographic area for which aggregate data may be released.

F. Annual Report. A statistical report shall be prepared and made available on the LTR website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2839 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009), LR 39:3307 (December 2013).

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or treated in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with cancer data relating to their residents. Each signatory state shall agree in writing to follow standard procedures to safeguard patient confidentiality and ensure data security.

B. Before the release of any confidential information to other state cancer registries, an Interstate Data Exchange Agreement shall be executed by a representative of the other state registry who is authorized to legally obligate the registry and by a representative of the Louisiana State University System.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2840 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2790 (December 2009), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:2789 (December 2009), LR 39:3308 (December 2013).

§8515. Contact Information for the Louisiana Tumor Registry

Louisiana Tumor Registry
2020 Gravier St, 3rd Floor
New Orleans, LA 70112
Phone: (504) 568-5757
Fax: (504) 568-5800
Website: http://louisianatumorregistry.lsuhsc.edu

AUTHORITY NOTE: Promulgated in accordance with R.S.40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2840 (December2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR35:2790 (December 2009), LR 39:3308 (December 2013).

Xiao-Cheng Wu, MD, MPH, CTR
Director

1312#033

RULE

Department of Natural Resources
Office of Conservation

Records (LAC 43:XIX.107)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX.107.B, requiring that electrical logs, when run, of all test wells, or wells drilled in search of oil, gas, sulphur and other minerals, shall be submitted electronically. In an effort to reduce the costs of handling and maintaining these records, further align office requirements for data submittal with the standard practices now common in the ordinary business practices of the regulated community while simultaneously maintaining compliance with R.S. 44:1(B), and improving public access to this data, the Office of Conservation has revised rules for LAC 43:XIX.107.B. The intent of this Rule is to minimize the cost of compliance, and agency costs to handle and store this data through the use of available technology, and to provide more efficient public access to the electric well log data via the SONRIS system. The effective date for this Rule is January 1, 2014.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions
§107. Records

A. …

B. Electrical logs, when run, of all test wells, or wells drilled in search of oil, gas, sulphur and other minerals, shall be submitted in an electronic format to the Office of Conservation. The electronic format shall be legible and in a format acceptable to the commissioner of conservation, and at a minimum be at least 200 dots per inch (dpi) resolution .tiff format image in color or black and white. All logs must be submitted within 10 days after completion of the well. These logs shall be filed on the following scales:

B.1. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958), amended by the Department of Natural Resources, Office of Conservation, LR 39:3308 (December 2013), effective January 1, 2014.

James H. Welsh
Commissioner

1312#059

RULE

Department of Natural Resources
Office of Conservation

Reduction of Paperwork Required under Statewide Order No. 29-B (LAC 43:XIX.609, 613, and 619)

The Department of Natural Resources, Office of Conservation has amended LAC 43: XIX.609, 613, and 619 in accordance with the provisions of the Administrative

Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The current regulations pertaining to the Act 312 hearings as implemented under statewide order 29-B require the participants to submit at least three hard copies of all plans documents and exhibits as well as an acceptable electronic version. In conducting Act 312 public hearings, Office of Conservation staff has determined that only one hard copy is necessary. The amendment is to reduce the number of hard copies submitted to one.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 6. Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites in Accordance with R.S. 30:29

§609. General Requirements of Plans

A. Plans shall be filed within the time limit set by the court and shall be filed with the commissioner. A copy shall be mailed or delivered to each party. Any party submitting a plan shall submit at least one hard copy of the technical data and plan, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, plans shall include the information required by §615 and shall include or be accompanied by the following:

A.1. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:661 (April 2007), amended LR 39:3309 (December 2013).

§613. General Requirements of Comments and Responses

A. Comments or responses shall be filed within the time limit set by the court and shall be filed with the commissioner and the court with a copy to each party. Any party filing a comment or response shall submit to the commissioner of conservation at least one hard copy of the comment or response and any data utilized as provided in §617, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, the comments or responses shall, in addition to the information required by §615 include or be accompanied by the following:

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007), amended LR 39:3309 (December 2013).

§619. Revisions to Plans, Comments or Responses Thereto

A. If, after any plan, comment or response is filed, such plan, comment or response is revised, the party revising the plan, comment or response shall promptly notify the commissioner and all parties to whom the plan, comment or response was sent, of the revision. The revising party shall furnish the commissioner at least one hard copy and one acceptable electronic copy of the data and revised plan, comment or response, and any technical data used to support the revision. The revising party shall also provide the court and all parties a copy of any revised plan, comment or response and any technical data used to support the revision. The revising party shall, if requested by the commissioner, participate in an additional commissioner's conference to discuss the revised plan, comment or response prior to the hearing. No revised plan, comment or response may be considered at the hearing unless notice of the revision has been sent to the commissioner, the court and to all parties to whom the legal notice is required at least 10 days prior to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007), amended LR 39:3309 (December 2013).

James H. Welsch
Commissioner

1312#025

RULE

Department of Public Safety and Corrections
Corrections Services

Disciplinary Procedures for Adult Offenders
(LAC 22:I.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), Department of Public Safety and Corrections, Corrections Services, has amended the contents of Chapter 3, Disciplinary Rules and Procedures for Adult Offenders.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult Services
Subchapter B. Disciplinary Rules and Procedures for Adult Offenders

§341. Disciplinary Rules and Procedures for Adult Offenders

Editor's Note: This Section contains rules formerly printed in LAC 22:I.341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, and 363.

A. Purpose—to constitute the department's *Disciplinary Rules and Procedures for Adult Offenders* as a regulation.

B. Applicability—deputy secretary, chief of operations, regional wardens, wardens, director of probation and parole, director of prison enterprises, sheriffs and administrators of local jail facilities and transitional work programs. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that all offenders and employees have reasonable access to and comply with the department's *Disciplinary Rules and Procedures for Adult Offenders*. They are established to help provide structure and organization for the prisons and a framework within which the offender population can expect the disciplinary system to function.

1. Revisions will be accomplished through this regulation under the signature of the secretary.

D. *Disciplinary Rules and Procedures for Adult Offenders*

1. This book of disciplinary rules and procedures constitutes clear and proper notice of same for each offender sentenced to the Department of Public Safety and Corrections.

2. It is the policy of the Louisiana Department of Public Safety and Corrections to operate a swift and fair disciplinary process that follows constitutional and statutory standards. The *Disciplinary Rules and Procedures for Adult Offenders* establishes a uniform offender disciplinary process that:

a. maintains order and control of institutional safety;

b. ensures offenders are disciplined fairly;

c. ensures constitutional rights are protected;

d. modifies offender behavior in a positive manner; and

e. maintains an official record of an offender's disciplinary history.

3. The *Disciplinary Rules and Procedures for Adult Offenders* provide structure and organization for the prisons and a framework within which the offender population can expect the disciplinary system to function. All offenders sentenced to the custody of the Department of Public Safety and Corrections, regardless of their housing facility, shall be placed on notice as to the requirements of the *Disciplinary Rules and Procedures for Adult Offenders* by being provided with a copy of the rulebook. All offenders shall be required to sign for the receipt of the rulebook and the signed receipt shall be filed in the offender's master record.

4. The secretary of the Department of Public Safety and Corrections has sole authority to change these rules, regulations and procedures. Utilization of these procedures does not constitute the granting of any enforceable right or privilege to any offender.

5. There are certain classifications or other actions which may be taken that affect an offender's custody status, job classification, housing assignment, institutional assignment and/or ability to participate in institutional programs or activities for which an offender may expect change during the course of his incarceration. Such changes may result from classification decision-making, the imposition of disciplinary penalties or to promote legitimate institutional goals and/or security. Such changes may not be disciplinary penalties in and of themselves. These and any similar changes which result from the action of other department regulations and institutional policies are not considered penalties in the context of the disciplinary process.

6. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those offenders who were subjected to loss of good time or failure to earn incentive wages.

E. Definitions

Classification—a process for determining the needs and requirements of those for whom confinement has been ordered and for assigning offenders to housing units, work assignments and programs according to their needs and existing resources. *Classification* actions, even if resulting from an incident handled in the disciplinary process, are not disciplinary sanctions.

Confidential Informant—person whose identity is not revealed to the accused offender but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

Custody Levels—see established policy and procedures for information regarding the various *custody levels* and status review procedures.

Extra Duty—work to be performed in addition to an offender's regular job assignment as specified by the proper institutional authority. This work is performed without the benefit of incentive wages.

Incentive Pay—compensation paid to an offender in the physical custody of the department and who is eligible to receive incentive wages and who has performed satisfactory work in the compensation grade in which he has been classified.

Posted Policy—policy memoranda detailing what behavior is required or forbidden of offenders and generally reflecting the individual needs of the facility. *Posted policies* must be distributed and posted in such a manner that offenders are placed on notice as to what behavior is required or forbidden and that sanctions may be imposed should the policy be violated.

Prison Rape Elimination Act of 2003 (PREA)—a federal law enacted to establish a zero-tolerance standard for the incidence of sexual assault within an institutional setting.

Sanction—a disciplinary penalty.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders. Additionally *employee*, as used herein, refers not only to an employee of the Department of Public Safety and Corrections, but also to any individual having the authority to exercise supervision over an offender.

F. Disciplinary Procedures

1. This rulebook contains the disciplinary rules and procedures for offenders remanded to the state's custody. All offenders are required to obey the rules and regulations. The following outlines the procedures that shall be followed when an offender violates a rule.

a. General Procedures

i. Reporting Infractions

(a). When an employee witnesses or has knowledge of any act by an offender that is in violation of the rules and/or posted policies, the employee shall first attempt, if appropriate, to resolve the matter informally. If the violation is observed or brought to the attention of a contract employee, volunteer or institutional visitor, the incident shall be reported to an employee by the person observing or with knowledge of the behavior. Informal resolution may include counseling, verbal reprimand, or the giving of an instruction, warning, or order. Informal resolution is not appropriate for any offense that poses a risk to the security of the institution (such as solicitation of staff to violate a rule or policy, an attempt to establish an inappropriate relationship or possession of contraband).

(i). If the incident cannot or may not be resolved informally, the employee shall complete a disciplinary report formally charging the offender with violating a rule.

(ii). The report shall be written by the employee who has reason to believe that an offender has violated, attempted to violate or conspired to violate one or more disciplinary rules.

[a]. An offender who intentionally attempts to violate a disciplinary rule, even if he is unsuccessful, may receive a disciplinary report for attempting to break that rule.

[b]. When two or more persons working in combination for the specific purpose of violating any disciplinary rule may receive a disciplinary report for conspiring to break that rule.

[c]. The description of an incident may include more than one separate and distinct rule violation. It is appropriate to include more than one rule violation on a single disciplinary report.

(iii). The disciplinary report shall include the following information:

[a].[i]. the accused offender's name, DOC number, housing and job assignment;

[ii]. the reporting officer's name and title;

[iii]. the offense number;

[iv]. the date and time of the offense; and

[v]. a description of the facts of the offense;

[b]. the description of the facts of the offense shall include the name(s) of all the witnesses, the location of the incident and a full statement of the facts underlying the charges;

[c]. a description of any unusual offender behavior, any physical evidence and its disposition, and any immediate action taken, including the use of force.

(b). Upon completion of the disciplinary report, the supervisor shall review the information and forward the report and any supporting documentation to the disciplinary office or designated depository for processing.

(c). If an offender's continued presence in the general population poses a threat to life, property, self, staff or other offenders, or to the security or orderly operation of the institution, or who is the subject of an investigation, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred or the shift supervisor) be placed in administrative segregation until his appearance before the disciplinary officer/disciplinary board or classification board.

(d). In instances when an offender is placed in administrative segregation for disciplinary purposes, the supervisor will ensure the documentation is complete and correct and, as needed, investigate to confirm the reasonableness of the allegation or circumstances prompting the assignment. This shall be done prior to the conclusion of the supervisor's tour of duty.

ii. Notice of Disciplinary Report

(a). Offenders shall be served (usually by a correctional officer) with notice of charges at least 24 hours prior to the hearing.

(b). The charges shall be explained to the offender in terms the offender can understand.

(c). Confirmation that the offender was advised of the charges shall be noted on the original of the disciplinary report by evidence of the offender's signature.

(d). If the offender refuses to sign the disciplinary report, the delivering officer shall note the refusal in the offender signature block and initial the box.

b. Counsel and Counsel Substitutes

i. Counsel is an attorney-at-law of the offender's choice who has been retained by the offender.

ii. Counsel substitutes are persons not admitted to the practice of law, but offenders who aid and assist, without cost or fee, an accused offender in the preparation and presentation of his defense and/or appeal.

iii. Counsel substitutes are only those offenders appointed by the warden or designee to assist other offenders with their legal claims, including but not limited to, assistance with filing of administrative remedy procedure requests, disciplinary board appeals and lost property claims. They may be removed from their positions if the warden or designee believes it appropriate.

iv. An offender may request the assistance of counsel or a counsel substitute at any stage of the disciplinary proceeding.

G. Disciplinary Hearings and Sanctions

1. Hearing Procedure

a. Hearings are designed to provide a fair and impartial review conducted by a disciplinary officer or disciplinary board to determine if a rule infraction(s) occurred, if the charged offender is guilty or not guilty of the charge(s) and, if guilty, the appropriate sanction(s).

b. An investigation report may be submitted to the disciplinary board detailing the facts uncovered in an investigation. If the investigation report is used as evidence in the hearing, a copy of the report must be maintained in the administrative record. In the alternative, the investigator may be called as a witness to present testimony.

2. Disciplinary Officer (Low Court Hearing)

a. A hearing conducted by a ranking security officer (lieutenant or above) or any supervisory level employee from administration or treatment appointed by the warden or designee who conducts hearings of minor violations (Schedule A) and who may impose only designated sanctions.

b. Any disciplinary officer directly involved in the incident or one who is biased for or against the accused cannot hear the case unless the accused waives recusal in writing. (Performance of a routine administrative duty does not necessarily constitute direct involvement or bias.)

c. At these hearings, the accused offender represents himself and is given full opportunity to speak in his own behalf.

d. Counsel substitutes, witnesses or the accusing employee are not permitted in the hearing.

e. Low court hearings are not recorded.

f. Hearings shall be held within seven days of the date of the report, excluding weekends and holidays, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Reasons for all delays should be documented.

3. Disciplinary Board (High Court Hearing)

a. If the offender will be transferred to a state correctional facility from a local jail facility for the purpose of conducting the hearing, the offender must be brought before the disciplinary board of the local jail facility where the violation(s) occurred and informed of the pending

transfer and necessitated delay of the hearing. The date the notice was given to the offender shall be documented on the disciplinary report.

b. A properly composed board will consist of two people, a duly authorized and trained chairman and a duly authorized and trained member, each representing a different discipline (security, administration, or treatment). The secretary or designee must approve the chairman and the warden or designee must approve the member.

c. 72 Hour Rule

i. Any offender who is placed in administrative segregation for a rule violation must be given a disciplinary hearing within 72 hours of being placed in administrative segregation. If the hearing is prevented from being conducted within 72 hours by exceptional circumstances or unavoidable delays, the offender must be brought before the disciplinary board and told the reason for the delay.

ii. The 72 hour rule does not apply to offenders housed in local jail facilities (including transitional work programs) whose hearings are conducted once they are transferred to a state correctional facility or those who have their disciplinary hearing conducted at a state correctional facility even if they are not transferred there. Offenders in this status have no expectation of a disciplinary hearing within 72 hours, or even seven days.

iii. The 72 hour rule does not apply to those offenders who are placed in administrative segregation for reasons other than for a disciplinary hearing. Examples of these classifications include, but are not limited to:

(a). awaiting transfer to another facility or another housing unit within the facility;

(b). transitional work program or intake, etc.

d. Hearings for those offenders not placed in administrative segregation shall be held within seven days of the date of the report, excluding weekends and holidays, unless the hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Reasons for all delays should be documented. Any member directly involved in the incident or one who is biased for or against the accused cannot hear the case unless the accused waives recusal in writing or verbally on the record. (Performance of routine administrative duty does not necessarily constitute direct involvement or bias.)

e. Decisions must be unanimous, with each member participating in the deliberations. If the decision is not unanimous, the case is automatically deferred for referral to a different disciplinary board.

f. If a second decision is not unanimous, then a finding of not guilty is appropriate.

g. The disciplinary board may also hear cases of offenders who have signed written requests for protection and may recommend appropriate action.

4. Conduct of the Hearing—Disciplinary Board (High Court Hearing)

a. Before the hearing can begin, an accused offender must acknowledge that he is familiar with the offender rights during the disciplinary process. (Refer to Subsection J of this Section, Offender Rights and Responsibilities, for additional information.)

b. All rights and procedural requirements must be followed unless waived by the accused.

c. Disciplinary board hearings shall be recorded in their entirety and the recording preserved for five years.

d. An offender who does not choose to be present at the hearing may sign a waiver which shall be read into the record. A counsel substitute shall represent him and enter a not guilty plea. The same applies to a disruptive offender who refuses to cooperate. If the offender refuses to sign a waiver, one shall be prepared and the refusal noted by two witnesses. In either case, the disciplinary chairman shall also sign the waiver.

e. The accused enters his name and DOC number into the record as does his counsel or counsel substitute (if any) and confirms that he understands his rights. If the offender indicates he does not know or understand his rights, they must be explained to him.

f. The chairman reads the disciplinary report to the accused and asks for a plea. Available pleas are “not guilty” or “guilty.” Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the chairman will enter a “not guilty” plea for him and proceed with the hearing.

g. Preliminary motions must be raised at the first opportunity or be considered waived and may include:

i. dismissal of the charge(s);

ii. continuance (Offenders are not entitled to a continuance to secure counsel unless they are charged with a violation that is also a crime under state law. Only one continuance will be granted unless new information is produced.);

iii. requests to face accuser and call witnesses, etc.;

iv. a motion due to lack of 24-hour notice, including any challenge to the waiver of the 24-hour notice rule having not been made in writing;

v. request for investigation;

vi. any other appropriate motions.

h. All motions must be made at the same time in the proceedings. Subsequent verbal motions will be denied as having been waived.

i. The board shall deliberate and rule on motions at the time the motion is made, unless expressly deferred to the actual hearing.

j. A summary of motions presented will be documented with written reasons for each ruling made on the disciplinary court motions.

k. After entering his plea and motions, if any, the accused may present his defense.

l. The board may ask questions of the accused, his witnesses and/or his accuser. During the hearing, the accuser should only be present to testify. He shall never be present during deliberations.

m. The disciplinary board shall carefully evaluate all evidence presented or stipulated.

n. In situations where the disciplinary report is based on a single confidential informant, there must be other evidence to corroborate the violation. That evidence may include, but is not limited to, testimony from another confidential informant, the record (investigative report) or other evidence. Whenever information is provided by confidential informants, the informant must be certified as having provided reliable information in the past (and have legitimate knowledge of the present incident(s)). If

requested, the accusing employee must be summoned to testify about the reliability and credibility of the confidential informant(s) when the disciplinary report is based solely on information from confidential informants.

i. All confidential information used in the disciplinary process shall be documented on the confidential informant testimony and certification form.

o. The board will review the information presented during the deliberations.

i. During deliberations, everyone except the board and any official observers must leave the room, and the board will decide the case on the basis of the evidence presented at the hearing.

ii. Official observers must not take part in the hearing or the deliberations.

iii. The disciplinary record of the accused may be examined to discover a pattern of similar misbehavior or to determine if a pending suspended sanction exists.

iv. The disciplinary record may be used to determine the appropriate sanction(s) to be imposed.

v. Both members of the board must verbally discuss and render their verdict(s).

vi. The audio recording will continue throughout the deliberations.

p. Following the deliberations, the chairman will announce the verdict.

q. If the verdict is guilty, the chairman will then announce the sanction(s).

r. It must be clearly articulated which sanction applies to each specific rule violation for which the offender was found guilty.

s. The board has full authority to suspend any sanction imposed for a period of up to 90 days.

5. Correcting Disciplinary Reports

a. A reviewing employee may change the rule violation number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule violation number(s) may be added if the offense is clearly described on the report.

b. Before the hearing begins, the board may change the rule number to match the description of the alleged misbehavior, if necessary, and may also change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number that determines the offense.

c. The continuance may be waived and does not necessarily need to be for 24 hours.

NOTE: This information shall be voiced on the recorder for the record.

6. Sanctions

a. Sanctions must fit the offense and the offender. An offender with a poor conduct record may receive a more severe sanction than an offender with a good conduct record for the same offense. Even so, serious offenses call for serious penalties.

b. An offender who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation.

c. After a finding of guilt for a new violation, a previously suspended sanction may be imposed as well as a new sanction.

d. State and federal criminal laws apply to offenders. In addition to being sanctioned by prison authorities, offenders may also be prosecuted in state and federal court for criminal conduct.

e. Restitution may be imposed in accordance with established policies and procedures and is not considered a disciplinary sanction and may be assessed in addition to any other permissible penalties.

f. An offender who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an offender who has been convicted of three major violations or a total of five violations in a six month period. Major violations are Schedule B offenses. A habitual offender may receive Schedule B penalties following a finding of guilt of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

g. After a finding of guilt, the disciplinary officer may impose one or two of the penalties for each violation.

H. Appeals

1. A request for review of a disciplinary decision must follow these procedures.

a. Appeals to the Disciplinary Board

i. An offender may appeal a case heard by the disciplinary officer (low court) only to the disciplinary board (high court).

ii. As soon as the ruling is issued, the offender who wants to appeal must clearly say so to the disciplinary officer who will then automatically suspend the sanction and schedule the case for the disciplinary board.

iii. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board. The disciplinary board cannot increase the sanction imposed by the disciplinary officer.

iv. The appeal to the disciplinary board will be the final appeal in a case heard by the disciplinary officer. No other appeals are allowed. The appeal from the disciplinary officer to the disciplinary board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the disciplinary officer and appealed to the disciplinary board may not be appealed to the warden or to the secretary.

b. Appeals to the Warden

i. An offender may appeal a case heard by the disciplinary board (high court). All appeal requests on high court cases shall be to the warden.

ii. The offender may appeal himself or through counsel or counsel substitute. In any case, the appeal must be received within 15 calendar days of the hearing.

iii. The appeal should be clearly written or typed on the appeal from the disciplinary board form. This form is available from the offender's classification officer. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form.

iv. The warden will decide all appeals within 30 calendar days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results

(unless circumstances warrant an extension of that time period and the offender is notified accordingly).

v. Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary for the offender to only provide basic factual information regarding his case. Lengthy appeals will be returned to the offender for summarization. The offender will have five calendar days from receipt to comply with the instructions and resubmit. It is important to remember that abuse of the system impairs the department's ability to respond to legitimate problems in a timely fashion.

c. Appeals to the Secretary

i. An offender may appeal the decision of the warden to the secretary and must indicate that he is "not satisfied" in the appropriate box on the appeal decision form. The document should then be submitted to the disciplinary office or designated depository.

ii. The offender must submit the form within five calendar days of the date of the receipt of the warden's decision. No supplement to the appeal will be considered.

iii. It is only necessary that the offender check the box indicating, "I am not satisfied," date, sign and forward the form to the appropriate person.

iv. An offender who does not file an appeal to the warden in a timely manner shall relinquish his right to appeal to the secretary.

v. The offender will receive an acknowledgment of receipt and date forwarded to the secretary's office.

vi. The institution will provide a copy of the offender's original appeal to be attached to the appeal decision form for submission to the secretary. The form is available from the offender's classification officer.

vii. The secretary shall only consider appeals of sanctions from decisions of the warden that resulted in an imposed or suspended sentence of one or more of the following penalties:

(a). forfeiture of good time;

(b). a custody change from minimum to medium if it involves transfer to another institution;

(c). a custody change to maximum;

(d). failure to earn incentive wages.

viii. In addition, appeals regarding restitution assessments may be submitted to the secretary. The appeal of such assessments must be submitted in accordance with established policy and procedures.

ix. The secretary will decide all appeals within 85 days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly). Absent unusual circumstances, the secretary will only consider review of the sanction(s) imposed of an offender who pled guilty.

I. Offender Rules and Violation Descriptions

Rule No.	Rule Name	Description
An offender found guilty of violating one or more of the rules defined below will be sanctioned according to the penalty schedule designated in the rule and the type of hearing provided.		
1	Contraband (Schedule B)	No offender shall have under his immediate control any illicit drugs, any product that could be used to adulterate a urine sample, unauthorized medication, alcoholic beverage, yeast, tattoo machine, tattoo paraphernalia, syringe any type weapon, cellular phone or component hardware or other electronic communications device, whether operational or not, (including but not limited to beepers, pagers, subscriber identity module (SIM) cards, portable memory chips, batteries for these devices, chargers, global satellite system equipment), or any other item not permitted by department regulation or institutional posted policy to be received or possessed or any other item detrimental to the security of the facility. Money is contraband. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility. Possession and/or use of lighted cigarettes or other smoking materials are deemed to be contraband in non-smoking areas. To smuggle or attempt to smuggle prohibited items into or out of the facility will be in violation of this rule. The area of immediate control is an offender's person, his locker(s) or storage area, his cell, his room, his bed, his laundry bag, his hobby craft and his assigned job equipment (such as, but not limited to, his desk, his tool box, or his locker at the job) or the area under his bed on the floor unless the evidence clearly indicated that it belonged to another offender. Contraband found in a common area cell shared by two or more offenders will be presumed to belong to all of them equally. Any offender who is tested and has a positive reading on a urinalysis or breathalyzer test will be considered in violation of this rule. An offender who refuses to be tested or to cooperate in testing, as well as an offender who alters his urine specimen, will also be found in violation of this rule (including being unable to provide a urine specimen within three hours of being ordered to do so). Any sketch, painting, drawing or other pictorial rendering produced in whole or in part by a death row offender, unless authorized by the warden of the institution is also considered in violation of this rule.
2	Rescinded	
3	Defiance (Schedule B)	No offender shall commit or threaten physically or verbally to commit bodily harm upon another person. This includes throwing any object, water or any other liquid or substance, feces, urine, blood, saliva or any form of human waste or spitting or attempting to spit on another person. No offender shall curse, insult or threaten another person in any manner. This prohibited conduct includes abusive or insulting conversation, correspondence, phone calls or gestures by an offender. Further, no offender shall obstruct, resist, distract or attempt to elude staff in the performance of their duties. Nor shall an offender intimidate or attempt to intimidate staff to manipulate staff's actions.

Rule No.	Rule Name	Description
		This rule does not prohibit an offender from advising staff of planned legal redress even during a confrontational situation (although an offender's behavior in such a situation shall not be disrespectful or violate any other disciplinary rule).
4	Disobedience (Schedule A)	Offenders must obey the posted policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules or other general instructions. The only valid defense for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury. (This defense includes incapacity by virtue of a certified medical reason.)
5	Disobedience, Aggravated (Schedule B)	Offenders must obey direct verbal orders cooperatively and promptly and not debate, argue or ignore orders before obeying. The last order received must be obeyed when orders conflict. Even orders the offender believes improper must be obeyed; grievances must be pursued through proper channels. Sanctions imposed by the disciplinary officer or the disciplinary board are to be carried out by the offender. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary board. The only valid defense for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury. (This defense includes incapacity by virtue of a certified medical reason.)
6	Disorderly Conduct (Schedule A)	All boisterous behavior is forbidden. This includes, but is not limited to, horseplay, rowdy and/or unruly conduct, etc. Offenders shall not jump ahead or cut into lines at the canteen, recreational activities, dining/kitchen area or during group movements of offenders. Visitors and guests shall be treated courteously and not be subjected to disorderly or intrusive conduct. Offenders shall not communicate verbally into or out of cellblocks or other housing areas.
7	Disrespect (Schedule A)	Employees, visitors, guests or their families shall not be subject to disrespectful conversation, correspondence, phone calls, actions or gestures. Offenders shall address employees, visitors, guests or their families by proper title or rank or by "Mr.," "Mrs.," or "Miss," whichever is appropriate.
8	Escape or Attempt to Escape (Schedule B)	NOTE: All costs associated with an escape may be recovered in accordance with established policy and procedures. A. Attempted Escape: The attempt to commit a simple or aggravated escape as defined herein. B. Simple Escape: The intentional, unauthorized departure of an offender under circumstances in which human life was not endangered, including but not limited to: from the grounds of an institution, a designated area or place within an institution, the custody of a corrections' employee while off the grounds of an institution or the custody of any law enforcement officer; the departure of a transitional work program offender from the designated area where he is legally confined; the failure of an offender participating in a transitional work program to report or return from his planned employment or other activity at the appointed time, or who leaves the job site or any other location where he is approved and expected to be for any reason without permission. This includes leaving without authorization from any penal and correctional facility, community rehabilitation center, transitional work program, hospital, clinic and any and all programs where offenders are legally assigned. C. Aggravated Escape: The intentional, unauthorized departure of an offender under circumstances in which human life was endangered, including but not limited to: from the grounds of an institution, a designated area or place within an institution, the custody of a corrections' employee while off the grounds of an institution or the custody of any law enforcement officer; the departure of a transitional work program offender from the designated area where he is legally confined; the failure of an offender participating in a transitional work program to report or return from his planned employment or other activity at the appointed time, or who leaves the job site or any other location where he is approved and expected to be for any reason without permission. This includes leaving without authorization from any penal and correctional facility, community rehabilitation center, transitional work program, hospital, clinic and any and all programs where offenders are legally assigned. For the purpose of this rule, the commission of a crime while on escape status constitutes aggravated escape.
9	Deleted	Refer to rule no. 30
10	Fighting (Schedule B)	Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking and other such behavior. Contact does not necessarily have to be made for this rule to be violated. Self-Defense Clarification: Self-defense is a complete defense and can be established to the board by one demonstrating that his actions did not exceed those necessary to protect him from injury.
11	Fighting, Aggravated (Schedule B)	Offenders shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or more offenders attack another offender without using weapons, the attackers are in violation of this rule, as are all participants in a group or "gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No offender shall intentionally inflict serious injury or death upon another offender. Contact does not necessarily have to be made for this rule to be violated. Self-Defense Clarification: (Refer to clarification under rule no. 10.)

Rule No.	Rule Name	Description
12	Gambling (Schedule B)	No offender shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No offender shall operate a book-making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed or how much wagered will be considered a violation.
13	Rescinded	
14	Intoxication (Schedule B)	No offender shall be under the influence of any intoxicating substance while in physical custody. Evidence of intoxication may include, but is not limited to, redness in eyes, slurred speech, odor of alcohol, elation, unsteady gait, boisterous behavior, being amused for no apparent reason, hysteria, being in a stupor, daze or trance, etc.
15	Malingering (Schedule B)	A. A qualified medical staff person determines that an offender has made repeated and frequent complaints at sick call having little or no clinical significance; or B. A qualified medical staff person (as defined by the institution's designated health authority) determines that an offender has sought emergency medical treatment, not during scheduled sick call, when there was no ailment or when there was a minor ailment that was or could have been properly handled at sick call.
16	Rescinded	
17	Property Destruction (Schedule B)	No offender shall destroy the property of others or of the state. No offender shall alter his own property when the result of such alteration is to render the article unsuitable according to property guidelines. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the offender intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.
18	Radio/Tape, CD or Electronic Media Player Abuse (Schedule A)	Radios/tape players, CD players or electronic media players must be used in accordance with the posted policies of the facility. Violations of posted policies regarding radios/tape players, CD players or electronic media players may be processed under this rule. In addition to any sanction that may be imposed by the disciplinary officer/disciplinary board, the ranking employee on duty may confiscate the radio/tape player, CD player or electronic media player for a period of up to 30 days.
19	Self-Mutilation (Schedule B)	No offender shall deliberately inflict or attempt to inflict injury upon himself or upon a consenting offender or consent to have an injury inflicted upon him. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.
20	Deleted	Refer to rule no. 21

Rule No.	Rule Name	Description
21	Sex Offenses, Aggravated (Schedule B)	Nonconsensual and/or consensual sexual acts involving offender-on-offender, offender-on-staff or non-incarcerated person is strictly prohibited. Contact by any offender of any person without the person's consent or of a person who is unable to consent or refuse through coercion is strictly prohibited. (There is no consensual sex in a custodial or supervisory relationship.) The following sexual behaviors are prohibited and the provisions of the Prison Rape Elimination Act shall be followed for all allegations of a violation. A. Nonconsensual Sexual Act (offender-on-offender): Contact between the penis and the vagina and the anus including penetration, however slight; contact between the mouth and the penis, vagina, anus, groin, breast, inner thigh or buttocks; penetration of the anal and/or genital opening of another offender by a hand, finger or other object. No offender shall sexually harass another offender by force or threat of force. B. Abusive Sexual Contact (offender-on-offender): Contact such as, but not limited to, intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, buttocks and/or mouth of any person. No offender shall sexually assault another offender by force or threat of force. C. Sexual Misconduct (offender-on-offender): Contact or attempted contact between the penis and the vagina or the penis and the anus including penetration or attempted penetration, however slight; contact or attempted contact between the mouth and the penis, vagina or anus; penetration or attempted penetration of the anal or genital opening of another offender by a hand, finger or other object; carnal copulation by two or more offenders with each other, or by one or more offenders with an implement or animal(s); two or more offenders who have obviously been interrupted immediately before or after carnal copulation. Use of the genital organs of one of the offenders is sufficient to constitute the offense. Offenders may not participate in any sexual activity with each other. D. Sexual Misconduct (offender-on-staff or non-incarcerated person): Contact or attempted contact between the penis and the vagina or the penis and the anus including penetration or attempted penetration, however slight; contact or attempted contact of the mouth and the penis, vagina or anus; penetration or attempted penetration of the anal or genital opening of another person by a hand, finger or other object; two or more persons who have obviously been interrupted immediately before or after carnal copulation. Offenders may not participate in any sexual activity with staff or non-incarcerated persons. E. Obscenity: No offender shall deliberately expose the genital organs and/or masturbate in view of staff or non-incarcerated persons. F. Other Prohibited Sexual Behavior (offender-on-offender, offender-on-staff or non-incarcerated person): No offender

Rule No.	Rule Name	Description
		shall: make sexual remarks, gestures or sounds; flirt; exchange personal items, etc. or make sexual threats in conversation by correspondence or telephone. G. Overt display of affection in a manner that may elicit sexual arousal with anyone is prohibited. H. There can be no consensual sex between an employee and an offender. Failure to report any improper advances made by an employee on an offender may result in a violation of this rule.
22	Theft (Schedule B)	No offender shall steal from anyone. Forgery, which is a form of theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.) Fraud or the deliberate misrepresentation of fact to secure material return and/or special favors or considerations is also a form of theft. An offender who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation. No offender shall have stolen items under his immediate control. No offender shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs. (Refer to rule no. 1. for the definition of "area of immediate control.")
23	Rescinded	
24	Unauthorized Area (Schedule B)	An offender must be in the area in which he is authorized to be at that particular time and date, or he is in an unauthorized area. No offender shall go into any housing unit other than that to which he is assigned (this includes standing in the doorway) unless he has permission.
25	Deleted	Refer to rule no. 22
26	Unsanitary Practices (Schedule A)	Offenders must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Offenders must maintain themselves, their clothing and their shoes in as presentable a condition as possible under prevailing circumstances. Each offender is responsible for keeping his bed and bed area reasonably clean, neat and sanitary. Beds will be made according to the approved posted policy at the facility. Offenders must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the kitchen/dining area. Chewing gum in the kitchen/dining area is prohibited.
27	Work Offenses (Schedule A)	Offenders must perform their assigned tasks with reasonable speed and efficiency. Though offenders have specific job assignments, it may be required that they do work other than what their job assignments require. This work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. (A school assignment is considered to be a work assignment for the purposes of this rule.)
28	Work Offenses, Aggravated (Schedule B)	An offender who flatly refuses to work or to go out to work or who asks to go to administrative segregation rather than work is in violation of this rule, as is an offender who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late for work roll call without a valid excuse (such as no duty or callout) is a violation, as is not reporting for extra duty assignment. Being late to work or to school assignment is a violation. (A school assignment is considered to be a work assignment for the purposes of this rule.)
29	Disturbance (Schedule B)	No offender shall create or participate in a disturbance. No offender shall incite any other person to create or participate in a disturbance. A disturbance is defined as two or more offenders involving acts of force or violence toward persons or property or acts of resistance to the lawful authority of correctional officers and/or other law enforcement officers under circumstances which present a threat of injury to persons, to property, or to the security and good order of the institution.
30	General Prohibited Behaviors (Schedule B)	The following behaviors, which may impair or threaten the security or stability of the unit or wellbeing of an employee, visitor, guest, offender or their families are prohibited: A. strong-arming or using threats of violence or perceived harm or reprisal to secure gain or favor for oneself or others; B. directly or indirectly threatening to harm oneself (except obvious suicide attempts); C. threatening, planning, conspiring or attempting to commit a violation of the rules of behavior for adult offenders or state and federal laws; aiding or abetting another offender involved in committing a violation of the rules or state and federal laws; D. engaging in or making an attempt to engage in a non-professional relationship with an employee, visitor, guest, their families or other person the offender may come in contact with while incarcerated; E. trafficking in drugs or alcohol, stolen goods or sexual favors; F. organizing or participating in a scam or similar behavior; G. making unsolicited contact or attempted contact with the victims of the offender's criminal activity or any immediate family member of the victim; H. bribing, influencing or coercing anyone to violate institutional policies procedures, rules, or state and federal laws or to attempt to do so; I. giving an employee anything of any value; J. harassing behaviors conducted via telephone, correspondence or during other activities; K. the communication of statements or information known to be malicious, frivolous, false, and/or inflammatory, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, offender or their

Rule No.	Rule Name	Description
		families may be subject to all Schedule B penalties except for forfeiture of good time and/or loss of incentive wages. (This rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.); L. using telephones, computers and/or office equipment without approval; M. purchasing or trading for offender legal or other services. Performing legal work for another offender or being in possession of another offender's legal work when not assigned as a counsel substitute or when not approved by the warden. (It is a violation for any offender to give or receive anything of value relative to the provision of paralegal services.) An offender may not perform or be in possession of staff legal work; N. communicating or visiting with outsiders when not approved or communicating or visiting with any person after being given instructions not to communicate or visit with that person; O. participating in a loud or boisterous argument or dispute even when a fight does not ensue; P. participant in, organizing or advocating a work stoppage; Q. making or attempting to make credit purchases; R. abusing the administrative remedy procedure; S. belonging to a gang, advocating membership in a gang, or participating in any gang related activities, including any form of gang or group identification or signaling; T. misrepresenting oneself to an employee, visitor, guest or the public; U. starting, causing, assisting in the creation of any fire, heat or spark of any nature by any means or methods, or attempting to start a fire and/or attempting to heat substances utilizing electrical/mechanical devices or any other means, other than in the performance of an approved work assignment; V. failing to cooperate with an investigation; W. any behavior not specifically enumerated herein that may impair or threaten the security or stability of the unit or well-being of an employee, visitor, guest, offender or their families may still be the subject of a disciplinary report and all Schedule B penalties except for forfeiture of good time and/or loss of incentive wages; X. establishing and/or maintaining an account, or having an account established and/or maintained on any Internet-based social networking website, as well as accessing an unauthorized internet or intranet website.

J. Offender rights and responsibilities:

1. the right to be given a written copy of the disciplinary report at least 24 hours before the hearing begins which describes the contents of the charges against the offender (unless waived by him in writing);

2. the right to a hearing within 72 hours of placement in administrative segregation;

3. the right to counsel substitute for all alleged violations and the right to outside retained counsel, if the alleged violation is one for which the offender could also be charged in a criminal court, e.g. possession of illegal drugs, rape or aggravated battery, etc.;

4. the right to not be compelled to incriminate himself;

5. the right to present evidence and witnesses on his behalf and to request cross-examination of the accuser provided such request is relevant, not repetitious, not unduly burdensome to the institution and/or not unduly hazardous to staff or offender safety. (The board has the option of stipulating expected testimony from witnesses. In such cases, the record of the hearing shall contain a statement indicating the nature of the stipulated testimony. The board should assign proper weight to such testimony as though the witness had actually appeared.) The accusing employee must be summoned when the report is based solely on information from confidential informants, if such a motion is raised;

6. the right to an unbiased hearing. Any chairman or member directly involved in the incident, who is biased for or against the accused or who is in a therapeutic relationship with the offender that would be jeopardized by the therapist's presence on the disciplinary board, cannot hear the case unless the accused waives recusal in writing or verbally on the record. Performance of a routine administrative duty does not necessarily constitute direct involvement or bias;

7. the right to enter a separate plea to each rule violation for which he is charged;

8. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sanction imposed, when the accused entered a plea of "not guilty" and was found "guilty" by the disciplinary board. (This will usually appear on the finalized report.) The convicted offender shall be given or sent a written summary;

9. the right to appeal the decision consistent with the appropriate appeal procedure.

K. Disciplinary Sanctions

1. After a finding of guilt, the disciplinary officer (low court) or the disciplinary board (high court) may impose one or two of the penalties below for each violation.

2. Suspended Sentences. The disciplinary officer or the disciplinary board may suspend any sanction either imposes for a period of up to 90 days. The period of suspension begins on the date of the issuance of the ruling. When the time period has expired, the report itself remains a part of the record, although the sanction may no longer be imposed.

a. Penalty Schedule—Low Court

Penalty Schedule—Low Court	Description of Time/Clarifications
Reprimand	N/A
Extra duty	Up to 4 days for each violation
Loss of radio/tape, or CD or electronic media player and/or TV	Up to 2 weeks

Penalty Schedule—Low Court	Description of Time/Clarifications
Loss of recreation and yard activities	Up to 2 weeks (If the offender is housed in disciplinary detention or disciplinary detention/extended lockdown, the offender must be allowed a 24-hour break with access to recreation and/or yard activities after ten consecutive days in disciplinary detention or disciplinary detention/extended lockdown before any subsequent imposition of this penalty).
Telephone	Up to 2 weeks (When given this penalty, will not include loss of telephone privileges in emergencies or for legal calls).
Movies	Up to 2 weeks
Canteen	Up to 2 weeks
Loss of any similar minor privilege	Up to 2 weeks

b. Penalty Schedule—High Court (Schedule A)

Penalty Schedule (High Court)—Schedule A	Description of Time/Clarifications
Reprimand	N/A
Loss of minor privilege	Up to four weeks
Extra duty	Up to four days for each violation
Disciplinary detention	Up to five days for each violation
Forfeiture of good time	Up to a maximum of 15 days for each violation (An offender is presumed to have earned his good time on the date of sentencing and may forfeit such good time at any point thereafter.)
Quarters change	N/A
Job change	N/A
Confinement to dormitory, room or cell	Up to 14 days (This does not exclude participation in work, meals, medical or other essential call-outs.)
Failure to earn incentive wages	Up to three months (Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the introductory pay level for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.)

c. Penalty Schedule—High Court (Schedule B)

Penalty Schedule (High Court)—Schedule B	Description of Time/Clarifications
Reprimand	N/A
Loss of minor privilege (See penalty schedule—low court)	Up to 12 weeks, unless violation involved abuse of that privilege, then up to 24 weeks
Confinement to dormitory, room or cell	Up to 30 days (This does not exclude participation in work, meals, medical or other essential call-outs.)
Extra duty	Up to eight days for each violation
Disciplinary detention	Up to ten days for each violation
Forfeiture of good time (An offender is presumed to have earned his good time on the date of sentencing and may forfeit such good time at any point thereafter.)	Escape (simple or aggravated): Up to a maximum of all good time earned on that portion of the sentence served prior to the escape Attempted escape (simple or aggravated): Up to a maximum of 180 days for each violation Battery of an Officer: Up to 180 days for each violation Physical possession of illegal drugs or a weapon: Up to 180 days for each violation All other Schedule B violations: Up to a maximum of 90 days for each violation
Quarters change	N/A
Job change	N/A
Failure to earn incentive wages	Up to one year Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the introductory pay level for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.
Loss of hobby craft	Up to 12 months This penalty is at the discretion of the warden or designee, based upon the length of the sanction, this penalty may include loss of the hobby craft box assignment--in such cases, the offender would not be eligible to apply for resumption of this privilege until after the sanction has been served. Loss of hobby craft privileges that result from custody status changes, classification actions, housing or institutional assignment changes, other changes that may routinely occur during the course of incarceration or the imposition of other disciplinary penalties are not to be considered as a "loss of hobby craft" sanction in the context of the disciplinary process.
Custody change from minimum to medium custody status	Imposition of this sanction may include transfer to another institution. Any change of quarters, job change or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction.

Penalty Schedule (High Court)—Schedule B	Description of Time/Clarifications
Custody change from minimum or medium custody status to maximum custody status (working cellblock or disciplinary detention/ extended lockdown)	Imposition of this sanction may include transfer to another institution. Any change of quarters, job change or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction. When expressly indicated as a sanction, review of the assignment will be in accordance with established policy and procedures.
Loss of visiting privileges	If the violation involves visiting, to be reviewed by the warden or designee every 90 days. (Established policy and procedures govern restrictions relative to non-contact versus contact visiting and is not considered a disciplinary penalty.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:413 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2194 (October 2008), LR 39:3309 (December 2013).

§343. Foreword

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:414 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2194 (October 2008), repealed LR 39:3320 (December 2013).

§345. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:414 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2195 (October 2008), repealed LR 39:3320 (December 2013).

§347. Disciplinary Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:415 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2196 (October 2008), repealed LR 39:3320 (December 2013).

§349. Hearings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:416 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2198 (October 2008), repealed LR 39:3320 (December 2013).

§351. Correcting Disciplinary Reports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:417 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), LR 36:2873 (December 2010), repealed LR 39:3320 (December 2013).

§353. Sanctions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:417 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), repealed LR 39:3320 (December 2013).

§355. Penalty Schedule—Disciplinary Report (Heard by Disciplinary Officer/Low Court)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), repealed LR 39:3320 (December 2013).

§357. Penalty Schedule—Disciplinary Report (Heard by Disciplinary Board/High Court)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended LR 28:94 (January 2002), repromulgated LR 28:1797 (August 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), repealed LR 39:3320 (December 2013).

§359. Penalty Clarifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:418 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2200 (October 2008), repealed LR 39:3320 (December 2013).

§361. Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2200 (October 2008), repealed LR 39:3321 (December 2013).

§363. Disciplinary Rules

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S. Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:2201 (October 2008), repealed LR 39:3321 (December 2013).

James M. LeBlanc
Secretary

1312#022

RULE

Department of Public Safety and Corrections
Corrections Services

Drug-Free Workplace (LAC 22:I.207)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §207, Drug-Free Workplace.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 2. Personnel
§207. Drug-Free Workplace

A. Purpose—to provide a comprehensive program of substance abuse education and to establish guidelines for employee drug and alcohol testing.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, director of probation and parole and director of prison enterprises. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its contents to all concerned.

C. Policy. Substance abuse is a major contributor to criminal activity and is particularly detrimental to the department's mission to provide for the safety of employees and the public. Employees who engage in substance abuse may not be able to perform the essential functions of their positions and may be less likely to enforce policies and procedures effectively to control or to prevent illicit drug and alcohol use by other employees and offenders. Therefore, it is the secretary's policy to promote increased employee awareness of substance abuse and to achieve and maintain a workplace free of drugs and alcohol.

D. Definitions

CAP-FUDT-Certified Laboratory—a laboratory certified for forensic urine testing by the College of American Pathologists.

Collection Site—a designated place for the employee to provide a urine specimen to be analyzed for the presence of drugs.

Custodian of Records—a staff person responsible for the direct accountability of drug test results.

Drug Testing—

a. for the purpose of this regulation, drug testing programs shall be comprised of two testing components:

i. preliminary analysis (using the testing instrument available on the current contract issued by the procurement and contractual review division and approved by the secretary) and

ii. formal testing.

b. The application of formal testing may be contingent upon the results of the preliminary analysis. Alcohol testing consists only of administering the approved test and replicating any positive results.

Employee—any individual employed by or appointed to a position with corrections services (including student workers and temporary appointments and, for the purpose of this regulation, employees of Allen Correctional Center and Winn Correctional Center) or by an outside agency or provider who works in an institution or division or any individual under contract with corrections services who works in an institution or division.

a. (This does not necessarily confer "employment" status on independent contractors or employees of outside agencies, but serves to define a class of people who are subject to participation in the drug-free workplace program).

Formal Testing—a second analytical procedure following a positive result on a preliminary analysis to identify the presence of a specific drug which is independent of the preliminary analysis using a different technique and/or chemical principle. Formal testing is conducted by a CAP-FUDT or SAMSHA-certified laboratory.

Medical Review Officer (MRO)—a licensed physician designated by the unit head who is responsible for receiving positive preliminary analysis results. The MRO must possess knowledge of substance abuse disorders and appropriate medical training to determine and evaluate an individual's positive result together with his medical history and other relevant biomedical information.

Offender—anyone in the physical custody of the Department of Public Safety and Corrections or under the supervision of the Division of Probation and Parole.

Preliminary Analysis—an immunoassay screen to detect the presence of drugs or metabolites using approved drug testing instruments. (See section H.1. for additional information). The results of the preliminary analysis are to be used solely to indicate the need for additional formal testing, except for those who are being tested for pre-employment purposes. In this case, when the preliminary analysis is positive, it shall be sufficient cause to either

remove the prospective employee from consideration for employment or appointment or be cause for conducting formal testing. If formal testing is conducted and the result is positive, this shall be cause for the prospective employee's elimination from consideration for employment or appointment.

Safety/Security Sensitive Position—any job which directly or indirectly affects the safety and security of others. For the purpose of this regulation, safety/security sensitive positions are those which involve direct contact with offenders and those having access to confidential information relative to the care, confinement or supervision of offenders.

SAMSHA-Certified Laboratory—a laboratory certified for forensic drug testing by the Substance Abuse and Mental Health Services Administration.

SAMSHA Guidelines—the mandatory guidelines for federal workplace drug testing programs as published in the *Federal Register* on April 11, 1988 (53 FR 11970, revised on June 9, 1994 (59 FR 29908), further revised on September 30, 1997 (62 FR 51118) and any further revised guidelines issued by SAMSHA.

Unit Head—the head of an operational unit, specifically, the undersecretary, warden, director of probation and parole and director of prison enterprises.

E. General. Each unit head is responsible for implementation of a substance abuse education program that requires compliance with this regulation. Each employee is responsible for refraining from illegal use, possession, sale or manufacture of controlled substances and from reporting to work or working while under the influence of alcohol, illegal drugs or impaired by prescription drugs.

F. Type of Testing

1. Pre-employment. drug testing shall be conducted prior to employment. (See Paragraph D.9 for additional information). The unit human resources office is responsible for ensuring all new employees are given a copy of this regulation upon hire. All new employees shall sign and date the Receipt of Drug-Free Workplace Regulation. A copy of this form shall be maintained in the employee's personnel file.

2. Reasonable Suspicion/Probable Cause. Reasonable suspicion/probable cause screening and subsequent testing, as appropriate, may be based on:

a. observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol or when the odor of alcohol, marijuana smoke or other substance is present;

b. abnormal conduct or erratic behavior;

c. arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking (the term "trafficking" shall also mean "distribution");

d. information provided by reliable and credible sources or independently corroborated;

e. newly discovered evidence that the employee tampered with a previous drug or alcohol test;

f. Credible allegation or confirmation of involvement in a significant violation of policy in which judgment may have been impaired.

3. Post Accident. An employee shall be subject to drug testing following an accident that occurs during the course and scope of their employment that:

a. involves circumstances leading to a reasonable suspicion of the employee's drug use;

b. results in a fatality; or

c. results or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

i. An employee who is involved in an accident that results in bodily injury or property damage may be subject to drug testing.

4. Rehabilitative. Staff testing positive without a legitimate explanation and whose employment is not terminated shall be subject to participation in a rehabilitation program. As a condition for returning to work after participating in such a program, the employee must agree to follow-up testing on a random basis for up to 48 months. (Additionally, medical professionals who are participating in a rehabilitation program, substance abuse aftercare program or who have a documented substance abuse history must agree to periodic drug/alcohol testing throughout the course of their employment).

5. Random. All employees who occupy safety/security sensitive positions (as defined in this regulation) shall be subject to random drug testing. On a monthly basis, a list of employee numbers representing at least five percent of a unit's employees shall be selected at random by a computer-generated selection process. This list shall be provided to each institution, the division of probation and parole, division of prison enterprises and headquarters.

a. The office of information services shall generate the list of employee numbers at the prescribed interval and ensure that the lists are distributed directly to each unit head.

i. Alternatively, if a unit has a drug-testing services contract with a CAP-FUDT or SAMSHA-certified laboratory, the production of this list may be included as part of those services.

b. Unit heads shall establish a policy for matching the employee numbers to employee names, notification of selected employees, recording of test results and other appropriate procedures as needed.

c. All tests shall be conducted during the selected employees' work hours; no employee shall be called in on his day/night off specifically for the purpose of a random drug test.

d. The conduct of this program shall be in accordance with section H. of this regulation.

6. Promotion. Drug testing shall be conducted prior to promotion.

G. Substances to be Tested. In accordance with R.S. 49:1005, drug testing may be performed for any of the following classes of drugs: marijuana; opiates; cocaine; amphetamines; and phencyclidine in the random testing or preliminary testing process. This does not preclude testing for any other illegal drugs (e.g. methamphetamines,) alcohol, or abused prescription medication if there is reasonable suspicion or probable cause.

H. Conduct of the Drug Testing Program

1. Preliminary Analysis

a. The testing instrument available on the current contract issued by the procurement and contractual review

division and approved by the secretary shall be utilized as a preliminary analysis to determine the need for further testing, but may not be used as the basis for any disciplinary action or other adverse action. The collection process shall be done on-site by unit staff who have received the appropriate training. (Formal testing may be utilized initially in lieu of preliminary analysis when the unit head or designee determines that this is the most efficient method).

b. When the test produces a positive result, the MRO shall be notified. The MRO shall obtain a list of medication used by the employee at the time of the test and shall give the employee the opportunity to provide a medical history and/or discuss the test results.

c. Upon review and evaluation of all available information, the MRO shall determine the need for formal testing.

d. If formal testing is deemed necessary by the MRO, the employee shall be escorted to a collection site by a unit staff person.

e. Pursuant to Section D.9. of this regulation, it is not mandatory that the MRO review the results of a pre-employment preliminary analysis which results in a positive finding.

f. All employee preliminary testing shall be reported on the employee drug/alcohol field test.

2. Formal Testing

a. Formal testing shall be conducted by a CAP-FUDT or SAMSHA-certified laboratory and shall be performed in compliance with SAMSHA guidelines.

b. All urine specimens for drug testing shall be collected, stored and transported in strict accordance with SAMSHA guidelines. The cut off limits for drug testing shall also be in accordance with SAMSHA guidelines with the exception of initial testing for marijuana. The initial cut off level for marijuana shall be no less than 50 nanograms/ML and no more than 100 nanograms/ML as specified by the testing entity.

c. In the event of a positive result on a formal drug test, the laboratory's staff shall provide a copy of the results to the employee and to the unit head.

I. Conduct of the Alcohol Testing Program

1. Pursuant to established policy and procedures, employees are prohibited from reporting for or being on duty under the influence of alcohol or other intoxicants (or when the odor or effect is noticeable.) Towards this end, employees may be required to submit to alcohol testing while on duty under circumstances defined in section F.

2. A portable breathalyzer or other instrument and approved by the secretary shall be used to determine a violation of this regulation. In the event of a positive reading on the portable breathalyzer, a second test shall be conducted.

3. The alcohol test can be administered only by those persons specifically authorized by the unit head and who have been trained in the use of the testing instrument(s).

J. Training Required. A minimum of one hour of training per year on the effects and consequences of controlled substance abuse on personal health and safety at the workplace and indicators of substance use or abuse is required for all full time employees.

K. Record Keeping and Reporting Requirements

1. The custodian of records designated by each unit head shall maintain a record of each employee who has submitted to a drug or alcohol test, the date of such test, the name of the person performing the test, the number of tests performed and a summary of the results of each type of test.

2. All test results shall be retained for a minimum of three years after the employee resigns, retires or is dismissed from employment.

3. Pursuant to R.S. 49:1012, all information, interviews, reports, statements, memoranda and/or test results received through the unit's drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery or disclosed in any public hearing or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. All such confidential information shall be maintained in a secure manner.

4. A monthly report utilizing the employee drug testing report of drug testing activities shall be compiled by the headquarters human resources office for submission in the C-05-001 report.

5. By November 1 of each year, each unit's business office shall submit a report to the headquarters human resources office detailing the number of employees affected by the drug testing program, the categories of testing conducted, the associated costs of testing and the effectiveness of the program. In conjunction with the undersecretary's office, the headquarters human resources office shall compile the department's annual Employee Drug Testing Report for submission to the Division of Administration by February 1, 2009 and annually thereafter by December 1.

L. Impaired Ability Due to Prescription or Over the Counter Medication

1. Employees in safety/security sensitive positions are required to notify their immediate supervisor when they are taking medication which may affect their ability to perform the essential functions of the job prior to the start of their work day/shift.

2. Upon notification, supervisors must immediately contact the unit's MRO or designee to determine if the employee can safely perform the job duties while under the influence of the stated medication.

3. Employees who may cause a direct threat to the safety and security of the public, staff or offender population while under the influence of such medication shall not be allowed to complete the workday and shall be placed in enforced sick leave.

M. Violation of this Regulation

1. The disciplinary penalties and guidelines shall be utilized in the administration of this regulation. Refusal to submit to testing may result in disciplinary action. Formal testing with positive results may be cause for initiation of disciplinary action.

2. When confirmed positive formal test results do not result in termination, referral to the employee assistance program or other individual or agency equipped to coordinate accessibility to substance abuse education or counseling is appropriate and may be made.

3. Any time there is a reasonable suspicion that any employee is impaired and could be a direct threat or cannot safely perform their essential functions due to the use of drugs (prescribed or other) or alcohol consumption, the employee shall be immediately removed from the employee's work station and taken to a secure location (away from any possible contact with offenders) for preliminary or formal testing.

4. If any employee tests positive for drugs or alcohol during either the random, preliminary or formal testing, the employee will be placed on appropriate leave status and escorted off the premises. If impaired, assistance shall be provided to ensure the employee is transported to a safe location. The employee shall not be allowed to return to work until the condition is resolved or no earlier than the next scheduled work day if the unit head or designee so approves the return to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:522 (March 1999), amended LR 26:1308 (June 2000), LR 35:958 (May 2009), LR 39:3321 (December 2013).

James M. Le Blanc
Secretary

1312#021

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Compulsory Insurance
(LAC 37:VII.123 and 129; LAC 55:III.1717)

In accordance with the provisions of R.S. 32:863, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles has repealed LAC 37:VII, Chapter 1, Subchapter B, §123 and §129, and adopted LAC 55:III, Chapter 17, Subchapter A, §1717, to update the Rule on the collection of the administrative fee under the compulsory insurance law for failure to maintain the required liability insurance as is reflected current law. The previous law tied the collection of the administrative fee to the driver's license while current law ties the administrative fee to the reinstatement of the vehicle registration privileges.

Title 37
INSURANCE
Part VII. Motor Vehicles
Chapter 1. Insurance
Subchapter B. Compulsory Motor Vehicle Liability Security
§123. Maintenance of Compulsory Motor Vehicle Liability Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:861.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 4:297 (August 1978), repealed by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 39:3324 (December 2013).

§129. Compulsory Insurance Hardship License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:602 (September 1986), amended 13:667 (November 1987), repealed LR 39:3324 (December 2013).

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 17. Compulsory Insurance
Subchapter A. General
§1717. Owner and Driver Compliance

A. Each person who applies for registration of a motor vehicle, or applies for a driver's license, shall declare, in writing, on a form provided by the department that all motor vehicles registered in such person's name are covered by security as required by R.S. 32:861, and that such person intends to maintain said security at all times while said vehicle is used upon the highways of Louisiana.

B. In accordance with R.S. 32:863(D)(5), the department shall collect an administrative fee of $25 to offset the administrative costs of the department whenever an individual reinstates his registration privileges after such registration privileges were revoked in connection a reported cancellation of a motor vehicle liability insurance policy in accordance with R.S. 32:863(A)(3)(a).

1. This administrative fee shall be in addition to the reinstatement fee required by R.S. 32:863(A)(3)(a).

2. The administrative fee shall be collected for each reported insurance cancellation when the registration privileges are reinstated even if multiple cancellations on one or more vehicles are being reinstated at one time.

3. No administrative fee will be collected if the owner submits proof satisfactory to the department that there was no lapse in coverage or the person provides proof satisfactory to the department that such person sold or otherwise transferred the vehicle prior to the date the motor vehicle liability insurance was cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:862 and 32:863.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 39:3324 (December 2013).

Jill P. Boudreaux
Undersecretary

1312#093

RULE

Department of State
Elections Division

Prohibition on Accumulation of Annual, Sick and Compensatory Leave for Registrars of Voters
(LAC 31:II.117)

Editor's Note: A hearing was not held pursuant to R.S. 49:968(H)(2) to incorporate the changes in this Rule.

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and under the authority of R.S. 18:18, R.S. 18:134, R.S. 18:1400.8 and R.S. 36:742, the secretary of state hereby adopts this Rule to amend LAC 31:II.Chapter 1 to implement a uniform time and attendance

policy for the registrars of voters. The registrars of voters, who are the agency heads for their offices, in 53 of the 64 parishes have adopted a uniform time and attendance policy which has been accepted by the Department of State. This Rule serves to implement this time and attendance policy statewide, thus requiring all registrars of voters to adopt, implement and comply with this policy. Additionally, statewide implementation of this policy will provide for consistency in the human resources functions statutorily required of the Department of State for and on behalf of the registrars of voters.

Title 31
ELECTIONS
Part II. Voter Registration and Voter Education
Chapter 1. Registrar of Voters
§117. Prohibition on Accumulation of Annual, Sick and Compensatory Leave for Registrars of Voters

A. Definitions

Duty Status—a registrar of voters shall be available and ready to perform the tasks and responsibilities necessary to fulfill the mandated duties and functions of his/her office, and shall be on-call at all times.

B. The registrar of voters of each parish shall not be eligible to earn or accrue any type of annual or sick leave or paid time off, including compensatory leave, during his/her tenure as the registrar of voters.

C. Registrars of voters shall be considered in "duty status" at all times and therefore will not be required to report absences from the office, take leave for time away from the office or report hours worked to the Department of State for purposes of payroll processing, except for those overtime hours actually worked during early voting for which payment is required and authorized by R.S. 18:1400.8. Each registrar of voters will be solely responsible for the performance of the mandated duties of his/her office. Variances in time and attendance shall not affect the provision of duties and services mandated for each registrar of voters by the Louisiana Constitution and title 18 of the *Louisiana Revised Statutes*.

D. Registrars of voters will remain eligible to receive pay for overtime hours actually worked during early voting as authorized by R.S. 18:1400.8.

E. The current balances of accrued annual, sick and compensatory leave for each registrar of voters that were frozen pursuant to Department of State policy no. 46, "Prohibition on Accumulation of Annual and Sick Leave and Compensatory Time for Registrars of Voters," shall remain frozen pursuant thereto, and no further annual, sick or compensatory leave shall accrue after the effective date of this Rule. Upon retirement or separation from service, each registrar of voters will be eligible to be paid for up to a combined total of 300 hours of accumulated annual and compensatory leave previously earned pursuant to Department of State policy no. 2, "Attendance and Leave". The leave balances (annual, sick and compensatory) remaining will be reported by the Human Resources Division of the Department of State to the Registrars of Voters Employees' Retirement System for purposes of certification for retirement credit and calculation of retirement benefits, as allowed by the laws and rules governing that system.

F. Any annual, sick and compensatory leave accrued by an employee appointed as registrar of voters in the future shall be carried forward and frozen as of the date of the appointment as the registrar of voters. Upon retirement or separation from service, the registrar of voters will be eligible to be paid for up to a combined total of 300 hours of accumulated annual and compensatory leave. The leave balances (annual, sick and compensatory) remaining will be reported by the Human Resources Division of the Department of State to the Registrar of Voters Employees' Retirement System for purposes of certification for retirement credit and calculation of retirement benefits, as allowed by the laws and rules governing that system.

G. The provisions of this rule shall not be applied in violation of any provision of the Fair Labor Standards Act. Any application of such is strictly prohibited and shall render the applicable portion of the rule null and void.

H. The provisions of this rule apply to all 64 registrars of voters in the state of Louisiana and all registrars of voters that may be appointed in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:134, R.S. 18:1400.8 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 39:3325 (December 2013).

Tom Schedler
Secretary of State

1312#040

RULE

Department of Transportation and Development
Office of Engineering

Railroad Grade Crossings (LAC 70:IX.1301)

In accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:390 and R.S. 48:390.1, the Department of Transportation and Development, Office of Engineering, has amended §1301 to provide for procedures relative to the closures of railroad grade crossings on state owned and locally owned public grade crossings and related notifications to interested persons and entities.

Title 70
TRANSPORTATION
Part IX. Intermodal Transportation
Chapter 13. Safety Requirements for Railroad Grade Crossings
§1301. Closures of Grade Crossings

A. Applicability: Unless otherwise provided herein, this Rule shall apply to all public railroad grade crossings.

B. The department evaluates railroad grade crossings in accordance with 23 CFR 646 relative to railroad-highway projects based upon the following criteria:

1. estimated daily vehicular use at the crossing;
2. average number of trains passing the crossing per day (as provided by the railroad);
3. availability of alternative routes and distances to such routes;
4. train speeds at the crossing (as provided by the railroad);

5. highway/railroad accident/incident history at the crossing;

6. existing warning devices at the crossing;

7. degree of difficulty involved in improving the roadway approach by profile or in providing adequate warning devices such as flashing lights, gates, etc.;

8. sight distance and visibility at the crossing;

9. angle of intersection of alignments of the roadway and the railroad;

10. redundancy of crossings in the area;

11. proximity of a state highway, new crossing or recently upgraded crossing;

12. number of school busses using the crossing (as provided by the local governing authority);

13. number of unique vehicles using the crossing, such as those which carry hazardous materials or passengers for hire (as provided by the local governing authority); and

14. effect of any change on usage by emergency vehicles (as provided by the local governing authority).

C. If an evaluation suggests that closure of a public grade crossing is necessary for safety and in the best interest of the public, the department shall comply with the following procedures prior to closing the railroad grade crossing.

1. A review will be conducted in accordance with 23 CFR 646 by a diagnostic review team (DRT) team consisting of knowledgeable individuals. The department will collaborate with local officials to identify the individuals who will participate on the DRT.

2. The department highway/rail safety unit will send invitations to the DRT members by electronic transmission at least one week prior to the actual diagnostic review. The diagnostic review may occur earlier if agreed to by the DRT.

3. The department highway/rail safety unit will be responsible for providing the diagnostic review information to the DRT and for preparing and distributing completed criteria forms and comment sheets from the diagnostic review meeting.

4. The department highway/rail safety unit shall prepare the findings and recommendation of the DRT and produce all relevant documents and information that were considered. 5. Any diagnostic review that is older than 3 years shall be reevaluated by the department to insure that the original data and recommendations are still valid and if needed, the department will conduct another diagnostic review.

D. If the DRT recommends closure, the following procedures shall apply.

1. The department highway/rail safety engineer shall prepare a letter for approval by the chief engineer to proceed with the closure. This letter shall contain a brief explanation of the project location, the reasons for recommending the closure, any relevant attachments such as the diagnostic review meeting minutes, and the traffic analysis, if applicable.

2. If the department chief engineer agrees with the recommendation for closures, the chief engineer shall execute and forward the approval letter and furnish copies to the department assistant secretary, office of operations, the DRT, the applicable district administrator and elected officials and local public agencies.

3. The department highway/rail safety engineer shall provide notice of the approved closure in the following manners:

a. to the local governing authority, by certified mail;

b. to the railroad company, by mail;

c. to any other parties deemed by the department to have an interest in the proposed closure of the public grade crossing, by mail or electronic mail;

d. to local residents, including all property owners within a two mile radius of the subject crossing, by public notice with instructions for providing comments, published in the official journal where the crossing is located, by media release in local media outlets with instrucions on providing comments, and by posting a notice of closure at the railroad grade crossing that is subject to closure.

4. All notifications and publications, exclusive of the notice at the railroad grade crossing, shall establish a period of time, not less than 30 days, in which to provide comments and shall provide for a method by which the comments shall be delivered to the department. In addition, information may be obtained by visiting www.dotd.la.gov, or by e-mail at dotdcs@la.gov, or by calling the department customer service center at (225) 379-1232 or 1-877-4LADTOD (1-877-452-3683).

5. If the subject railroad grade crossing is on a state highway, the department will conduct a public meeting to address concerns of the local residents, businesses, and concerned citizens. The public meeting should be scheduled within 60 days of the notification.

6. If the subject railroad grade crossing is on a public non-state highway, the department will encourage the local public authority to hold a public meeting and may assist with the public meeting. The local public authority may request information from the department at the public meeting. Additional information may be obtained by visiting www.dotd.la.gov, or by e-mail at dotdcs@la.gov, or by calling the department's customer service center at (225) 379-1232 or 1-877-4LADOTD (1-877-452-3683). The notices relative to the local public meetings should be in accordance with the timelines established herein for state highway railroad grade crossings. The local public authority may request up to 45 additional days in which to convene a meeting or submit comments provided the request is in writing and received by the department highway/rail safety engineer or the department public affairs office within the initial 30-day period for comments.

7. If new information is presented or received that would cause the department to revise its recommendation for closure, or if an additional study is required as a result of new information, the department shall notify the local governing authority and the railroad company in writing of its revised plans.

8. The department will respond to comments received from the public and from the local governing authority in a timely fashion. After comments have been considered and after a public meeting has been conducted, as established herein, the department highway/rail safety engineer will prepare a notice of intent either, recommending, revising or rejecting the proposed railroad grade crossing closure to the department chief engineer. The notice of intent shall include a summary of findings and the manner of closure to be made to the crossing or adjacent crossings, if applicable.

9. If the department chief engineer approves the recommendation for closure, the notice of intent will be provided to the local governing authority by certified mail and to the railroad company by e-mail or regular mail.

10. For roadways maintained by local public entities, the local governing authority may request a reconsideration of the decision of the department chief engineer. Any such request must be in writing and received by the department chief engineer within 15 workdays from receipt of the notice of intent. If the request for reconsideration is timely received, the department secretary, chief engineer and executive director of the Louisiana Highway Safety Commission will meet to reconsider the approval. A final determination should be made within 15 workdays of receipt of the request for reconsideration.

11. Once the final determination is made, the department will work in conjunction with the railroad company to accomplish the work necessary to implement the consolidation/closure.

12. The local governing authority shall be kept apprised of the closure work schedule as follows.

a. The department will contact the local governing authority and applicable elected officials by telephone to relay the final decision of the department.

b. The department will issue a media release of the closure in accordance with current department policy.

c. A formal written notice will be sent to the local governing authority by certified mail, and the railroad company with the expected date of closure, and assurances that the closure will be made at no cost to the local public authority.

d. The department district office will notify appropriate emergency personnel of the closure.

13. Department district personnel will work with the railroad company to place any needed barricades on both sides of the crossing within the date provided in the media release.

14. After the crossing is physically closed, the department and railroad will work with the local public authority to remove any portion of local roadway within the city or parish right-of-way, if applicable, and install signs or other appurtenances, as needed.

15. The railroad company and the department will remove portions of roadway within its right-of-way, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:95 (January 1999), amended by the Office of Engineering, LR 39:3325 (December 2013).

Sherri H. LeBas
Secretary

1312#014

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Agricultural Chemistry and Seed Commission

Seeds (LAC 7:XIII.Chapters 1-11)

In accordance with R.S. 49:953, the Department of Agriculture, Office of Agriculture and Environmental Sciences, Agricultural Chemistry and Seed Commission intends to amend LAC 7:XIII.Chapters 1-11. This proposed action makes changes to rules and regulations to incorporate the merger of the Feed, Fertilizer, and Agricultural Liming Commission and the Seed Commission by Act 26, 2013; repeals duplicative or obsolete provisions; stays abreast of changes in industry standards for certifying the seeds of California bullrush, sea oats, and smooth cordgrass; and makes the rules and regulations easier for the public and the industry to use and understand.

The changes are shown in the following table, which is not a part of the revisions being made to the rules and regulations.

Table of Changes Made by Revision of LAC 7:XIII.Seeds	
Section	**Summary**
§101	Clarifies definitions applicable to Part XIII and defines La. Seed Law
§103	Allows extension of time to act on request for rule change with requestor's consent and grammatical changes
§105	Allows extension of time to act on request for declaratory ruling
§107	Repeal of moot regulation
§121	Changes "department" to "LDAF"
§123	Changes "inspection fee" to "regulatory fee" to conform to R.S. 3:1448, makes Grammatical and formatting changes
§125	Changes "department" to "LDAF" and grammatical and formatting changes
§131	Requires labels to be in English; moved §131.G to §135.C; revised wording related to testing and labeling to make the intent clear and more precise; grammatical changes to coordinate language in the regulation with language in the Seed Law; and to make formatting changes
§133	Grammatical changes
§135	Track language in Seed Law as to persons required to keep records; included vegetable seeds and seed containers in record keeping requirements; grammatical and formatting changes; and inserted §131.G as §135.C
§145	Repealed §145 because duplicate of §109
§301	Specify acts which, under the Seed Law, are violations subject to civil penalties
§303	Repealed because procedure for holding adjudicatory hearing is in the Seed Law.
§501	References definitions in§101; changes section number reference to reflect change in section numbers under repromulgation; deletes reference to old Seed Commission
§503	Formatting changes; changes "department" to "LDAF"
§505	to reflect change in section numbers under repromulgation

Table of Changes Made by Revision of LAC 7:XIII.Seeds	
Section	**Summary**
§507	Changes "Department of Agriculture and Forestry" or "Department" to "LDAF"
§511	Deletes reference to old Seed Commission
§513	Changes "Department of Agriculture and Forestry" to "LDAF"
§515	Delete limitation of sampling to moisture and germination to reflect industry changes; deletes second sample requirement; deletes reference in §515.F.2 to a fee that was changed in 2003 and moved to §125.F; format
§517	Changes "Department of Agriculture and Forestry" to "LDAF"
§519	Delete obsolete word "seedsmen" to be replaced by more precise terminology; changes "Department of Agriculture and Forestry" to "LDAF"
§521	Requires retail outlets to have LDAF approved procedure for handling bulk certified seed; grammatical and formatting changes; changes "Department of Agriculture and Forestry" to "LDAF"
§715	Changes certification standards for California Bulrush seed to meet current industry standards
§717	Changes certification standards for Sea Oats seed to meet current industry standards
§719	Changes certification standards for Smooth Cordgrass seed to meet current industry standards
§723	Changes "Department of Agriculture and Forestry" to "LDAF"
§741	Changes "Department of Agriculture and Forestry" to "LDAF"
§761	Changes "Department of Agriculture and Forestry" to "LDAF"
§785	Changes "Department of Agriculture and Forestry" to "LDAF"
§903	Deletes terms defined by the Seed Law or §101 of Part XIII; Changes "Department of Agriculture and Forestry" to "LDAF"
§905	Deletes reference to old Seed Commission
§907	Changes "Department of Agriculture and Forestry" to "LDAF"
§909	Changes "state entomologist" to "LDAF" changes "state entomologist" to "LDAF"
§911	Changes the time and date for testing and
§1101	Changes "Department" to "LDAF"
§1103	Changes "Department" to "LDAF"
§1105	Changes "Department of Agriculture and Forestry" and "department" to "LDAF"
§1107	Changes "Department" to "LDAF"
§1111	Changes "Department" to "LDAF"

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 1. General Provisions

Subchapter A. Definitions; Administrative Matters

§101. Definitions

(Formerly §101)

A. The definitions in R.S. 3:1331 and the following definitions are applicable to this Part.

* * *

Seed Gathered in Elevators—seed gathered in elevators or other establishments to be sold for planting purposes by farmers or other persons who are subject to the provisions of the Seed Law or the rules and regulations in this Part.

Seed Law—R.S. 3:1431et seq.

* * *

B. The terms defined in R.S. 3:1331 and in this Section have the meaning herein given to them, except where a rule or regulation or the context expressly indicates otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended, LR 12:825 (December 1986), LR 36:1220 (June 2010), LR 37:270 (January 2011), LR 39:1757 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§103. Request for Adoption, Amendment, or Repeal of a Rule (Formerly §239)

A. - C. …

D. The commission shall consider the request as follows:

1. A request for rule change shall be considered by the commission within a reasonable time, not to exceed 90 days, unless the requesting party consents to the matter being deferred for a longer period of time.

2. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

3. Failure of the requesting party to attend the meeting for purposes of discussing the proposed rule change may be cause for the request to be denied by the commission.

4. The request, with the consent of the requesting party, may be taken under consideration or action deferred.

a. If the matter is taken under consideration or action is deferred then it will be taken up and acted upon at the next regularly scheduled meeting of the commission or at a special meeting of the commission to be held before the next regularly scheduled meeting, as agreed upon between the requesting party and the commission.

E. Any decision by the commission shall be in writing and shall state the reasons for the denial or action being taken. Such notice may be delivered by hand, mail, electronically or by any other means reasonably assured to provide notice to the requesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 39:1763 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§105. Procedure for Declaratory Orders and Rulings (Formerly §241)

A. - C. …

D. The commission shall consider the request as follows.

1. The request shall be considered by the commission within a reasonable time, not to exceed 90 days, unless the requesting party consents to the matter being deferred for a longer period of time.

2. ...

3. Failure of the requesting party, after notice, to attend any hearing or meeting regarding the request may be cause for the request to be denied.

4. The request, with the consent of the requesting party, may be taken under consideration or action deferred by the commission. If the matter is taken under consideration or action is deferred then it will be taken up and acted upon at the next regularly scheduled meeting of the commission or at a special meeting of the commission to be held before the next regularly scheduled meeting, as agreed upon between the requesting party and the commission.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433, R.S. 49:962 and R.S. 49:963(D).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 39:1763 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§107. Repeal of Prior Rules and Regulations of the Seed Commission (Formerly §237)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), repealed LR 40:

§109. List of Noxious Weeds and Limitations on Noxious Weed Seed

A. The weeds listed in the following table are designated as noxious weeds. The seed of any noxious weed is permitted to be in seed sold, distributed, or offered or handled for sale only as provided in the limitation column of the table, except as otherwise provided in Subsection B.

List of Noxious Weeds and Seed Limitations	
Name	**Limitations**
1. Tropical Soda Apple (Solanum viarum)	Prohibited
2. Field Bindweed (Convulvulus arvensis)	Prohibited
3. Hedge Bindweed (Convulvulus sepium)	Prohibited
4. Nutgrass (Cyperus esculentus, C. rotundus)	Prohibited
5. Itchgrass (Rottboellia exaltata, L., R. cochinchinersis)	Prohibited
6. Balloon Vine (Cardiospermum halicacabum)	Prohibited
7. Cocklebur (Xanthium spp.)	5 per lb.
8. Spearhead (Rhynchospora spp.)	5 per lb.
9. Purple Moonflower (Ipomoea turbinata)	9 per lb.
10. Red Rice (Oryza sativa var.)	9 per lb.
11. Wild Onion and/or Wild Garlic (Allium spp.)	9 per lb.
12. Canada Thistle (Cirsium arvense)	100 per lb.
13. Dodder (Cuscuta spp.)	100 per lb.
14. Johnsongrass (Sorghum halepense)	100 per lb.
15. Quackgrass (Agropyron repens)	100 per lb.
16. Russian Knapweed (Centaurea repens)	100 per lb.
17. Blueweed, Texas (Helianthus ciliaris)	200 per lb.
18. Grass, Bermuda (Cynodon dactylon)	300 per lb.
19. Bracted Plantain (Plantago aristata)	300 per lb.
20. Buckhorn Plantain (Plantago lanceolata)	300 per lb.
21. Cheat (Bromus secalinus)	300 per lb.
22. Hairy Chess (Bromus commutatus)	300 per lb.
23. Corncockle (Agrostemma githago)	300 per lb.
24. Darnel (Lolium temulentum)	300 per lb.
25. Dock (Rumex spp.)	300 per lb.

List of Noxious Weeds and Seed Limitations	
Name	**Limitations**
26. Horsenettle (Solanum carolinense)	300 per lb.
27. Purple Nightshade (Solanum elaeagnifolium)	300 per lb.
28. Sheep Sorrel (Rumex acetosella)	300 per lb.
29. Morning Glory (Ipomoea spp.)	18 per lb.
30. Wild Poinsettia (Euphorbia heterophylla, E. dentata)	18 per lb.
31. Wild Mustard and Wild Turnips (Brassica spp.)	300 per lb.
32. Hemp Sesbania, Coffeebean, Tall Indigo (Sesbania exaltata)	300 per lb.
33. Curly Indigo (Aeschynomene virginica)	300 per lb.
34. Mexican Weed (Caperonia castaneaefolia)	300 per lb.
Sum of Total Noxious Weed (Subject to limitations above)	500 per lb.

B. If the noxious weed or weed seed restrictions set out in Chapter 7 of this Part for a field or seed being certified is more restrictive than the limitations in the table in Section A or if any of those rules and regulations provides for limitations on weeds not listed in the table then the rules and regulations in Chapter 7 for that specific crop kind or variety supersedes the limitations listed in the table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), amended, LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:199 (February 2004), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013), amended LR 40:

Subchapter B. Fees

§121. License Fee; Laboratory and Sampling Fees (Formerly §113)

A. ...

B. The following laboratory and sampling fees shall be applicable to all seed testing conducted by LDAF:

1. - 10. …

11. service sample taken by LDAF inspector: $15 per sample; and

12. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220 (June 2010), LR 37:1373 (May 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§123. Regulatory Fee on Seeds (Formerly §115)

A. A regulatory fee of $0.20 for each 100 pounds of agricultural and vegetable seed sold, within this state shall be paid to the commission. The regulatory fee shall be due at the first point of sale in this state. However, the payment of a regulatory fee is not required upon the sale of Louisiana certified tagged seed upon which the regulatory fee has already been paid.

B. All seed dealers shall maintain accurate and legible records for all seeds sold, distributed, or offered or handled for sale in this state. These records shall include the following information for each lot of seed:

1. any identification of each lot;

2. the kind and variety of seed in the lot;

3. the number of pounds of seed in the lot; and

4. for each lot sold or distributed, the invoice number, weight, lot number, number of containers, and name of the person receiving the seed.

C. Each seed dealer shall file a quarterly report with LDAF on a form approved by the commission and submit the inspection fees collected during that quarter.

1. The reports shall cover the following periods: 1st quarter—July, August, September; 2nd quarter—October, November, December; 3rd quarter—January, February, March; 4th quarter—April, May, June.

2. Reports and fees shall be filed with LDAF no later than 30 days following the end of each quarter. If a seed dealer has no sales during the quarterly reporting period the LDAF must be notified accordingly.

D. LDAF may assess a 10 percent additional charge as a late payment for failure to timely pay any inspection fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 14:603 (September 1988), amended LR 29:2632 (December 2003), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§125. Certification, Field Inspection, and Sampling Fees (Formerly §143)

A. All fees shall be paid before the requested work is performed, as follows.

1. All application fees and fees for inspections, re-inspections, sampling and re-sampling shall be paid at the time the application or request for work is submitted to LDAF, except for those crop kinds where the fee is based on an hourly rate and mileage.

A.2. - C.1. …

2. for the following species, California bulrush, sea oats, and smooth cordgrass:

a. an hourly fee of $25 per hour per inspector for each inspection and

b. mileage for travel to and from inspection location at the mileage reimbursement rate established by the Division of Administration's state travel regulations;

3. - 6.b. …

c. seed storage inspection:

i. a fee of $25 per hour, per inspector for each seed sweet potato storage inspection, and

ii. mileage for travel to and from the inspection location mileage reimbursement rate established by the Division of Administration's state travel regulations.

C.7. - H.1.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984); amended by the Department of

Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000), LR 29:2632 (December 2003), LR 31:420 (February 2005), LR 31:1511 (July 2005), LR 34:2339 (November 2008), LR 37:2979 (October 2011), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

Subchapter C. Labels; Records; Samples; Tolerances; Standards; Noxious Weed Seed

§131 Analysis Test; Labeling of Seed (Formerly §121)

A. Every person whose name appears on the label of seed, except persons exempt pursuant to the authority of R.S. 3:1445, and who sells, transports, distributes, or offers or handles for sale agricultural~~,~~ or vegetable, shall have a complete analysis test performed on the seed by a registered seed technologist or an official state seed analyst prior to the seed being sold, distributed or offered or handled for sale in Louisiana.

B. Information required to be shown on the label by R.S. 3:1436 or this Part shall be in the English language and in type that is no smaller than eight point.

C. Seed treated with a mercurial or similarly toxic substance that is harmful to humans or other vertebrate animals, if any residue remains in or on the seed, shall be labeled in type no smaller than eight points and shall be in red letters on a distinctly contrasting background. In addition, the label shall show a representation of a skull and crossbones using at least 16 point type.

D. Seed treated with a substance harmful to humans or other vertebrate animals, other than a mercurial or similarly toxic substance, and which is in containers of four ounces or less does not need to contain a cautionary statement on the label.

E. The following substances shall not be deemed harmful if present at a rate less than the number of parts per million (ppm) indicated:

1. allethrin, 2ppm;
2. malathion, 8ppm;
3. methoxychlor, 2ppm: piperonyl butoxide, 8ppm on oat and sorghum and 20ppm on all other seeds; and
4. pyrethrins, 1ppm on oat and sorghum and 3ppm on all other seeds.

E. Seeds labeled "foundation seed," "registered seed" or "certified seed," shall not be sold, distributed, or offered or handled for sale in this state unless ~~it~~ the seed has been produced and labeled in compliance with this Part and the procedures and protocols of a seed certifying agency approved by the commissioner.

F. When more than one component is required to be named on the label, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

G. The label on hybrid corn shall show the state where grown.

H. The name and kind of variety of seed shall not be abbreviated on the label, but shall be written out in full.

I. No seed shall be sold or offered for sale more than nine months, inclusive of the month of testing, after the date on any germination label applicable to the seed or seed lot. For all vegetable seed packaged in hermetically sealed containers, this period shall be extended to 24 months, inclusive of the month of testing.

1. The owner or distributor of the seed shall be responsible for relabeling the seed after expiration of the germination test date period to state the true germination date after the seed has been retested.
2. A new tag or label shall be used to state the true germination date. The original tag shall not be changed in any way.

J. Each package of coated seed shall have the following additional information on the front of the package which shall be set forth in a clear and conspicuous manner so that the ultimate purchaser is able to read the information easily and without strain:

1. the words “coated seed;”
2. a statement giving the maximum amount of coating material contained within the package;
3. a statement referring purchaser to the product label for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended, LR 12:825 (December 1986), LR 16:492 (June 1990), LR 37:270 (January 2011), LR 37:2979 (October 2011), LR 39:1757 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§133. Tag Requirements (Formerly §111)

A. The analysis tag shall be a Number 6 standard shipping tag, minimum size, and shall carry the information required by the Seed Law, arranged as follows.

Kind and Variety _____

Where Grown _____Net Wt. _____Lot No. _____

Pure Seed _____Percent Germination _____ Percent

Inert Matter _____Percent Hard Seed_____ Percent

Crop Seed ____Percent Total Germ and Hard Seed _____ Percent

Weed Seed _____ Percent Date of Test _____

Name and No. of Noxious Weed Seed per lb._____

_____

_____

Name _____

Address _____

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1436 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§135. Invoices and Records; Inspection of Records (Formerly §119)

A. Each person selling, distributing, or offering or handling for sale agricultural or vegetable seed shall keep for a period of three years complete records of each container or lot of seed sold, distributed, or offered or handled for sale by

that person. Complete records shall, at a minimum, include the information required in §123.A.2 of this Part.

B. These records shall be accessible for inspection by the commissioner, commissioner, or LDAF or their authorized agent at any time during customary business hours.

C. Trucks and other carriers transporting seed for delivery in this state shall have available for examination at any time a bill of lading, waybill or a delivery receipt showing:

1. the name of the shipper or party from whom purchased;

2. the name and address of the party to whom the seed is to be delivered;

3. the kind and amount of each separate lot of seed; and

4. the name of the truck line or owner and driver of the truck or other carrier transporting the seed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1435 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§145. Noxious Weeds

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), amended, LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:199 (February 2004), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:

Chapter 3. Enforcement of Law and Regulations

§301. Acts which Constitute Violations (Formerly §151)

A. The following acts shall be considered as violations under the Seed Law or this Part:

1. selling, distributing, or offering or handling for sale any agricultural or vegetable seed without registering with the commissioner as a seed dealer or maintaining a seed dealer's license;

2. failing to timely file any required report or pay any required regulatory fee on agricultural or vegetable seed sold within or into Louisiana;

3. selling, distributing, offering or handling for sale, or transporting, unless exempted under R.S. 3:1445, any agricultural or vegetable seed within or into this state which is not labeled in accordance with the Seed Law or this Part;

4. selling, distributing, offering or handling for sale, or transporting except for common carriers exempted under R.S. 3:1445, within or into this state, any agricultural or vegetable seed that is:

a. labeled in a false or misleading manner; or that is

b. advertised in a false or misleading manner; or that

c. contain conflicting labeling or label information;

5. failing to comply with a written stop order issued by an authorized agent of the commissioner, commission or LDAF;

6. failing to comply with labeling requirements when selling, distributing, or offering or handling for sale "treated" seed;

7. detaching, defacing, damaging, falsifying, altering or destroying any required label, certificate, seal, tape, test data, records or other documents provided for in the Seed Law or this Part unless any such action is performed by the ultimate consumer or end user of the seed after purchase by that person;

8. failing to keep accurate records or to make any such records available for inspection, as required by the Seed Law or this Part;

9. selling, distributing, or offering or handling for sale agricultural or vegetable seed as certified, registered or foundation class without being produced and labeled in compliance with the Seed Law or this Part;

10. representing a lot as "certified seed" without an official seed certifying agency label, tape, certificate or other approved documentation attached to or accompanying each container or shipment;

11. obstruct in any way the commissioner, the commission, LDAF or any of their authorized agents in the performance of their duties;

12. selling, distributing, offering or handling for sale, or transporting except for common carriers exempted under R.S. 3:1445, any agricultural or vegetable seed that has not been tested in accordance with the Seed Law or this Part;

13. using relabeling stickers without having both the calendar month and year that the germination test was completed and the lot number that exactly matches the original lot number;

14. failure of labeled seed to be within the limitations allowed or recognized tolerances of analysis on label;

15. failure to comply and obtain a written release of a stop order within the 30-day period required by R.S. 3:1440.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), Amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:

§303. Penalties; Adjudicatory Hearing Required (Formerly §153)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1446 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended by the Department of

Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), LR 29:2633 (December 2003), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:

Chapter 5. General Seed Certification Requirements

§501. Definitions also Applicable to this Chapter (Formerly §125)

* * *

Noxious or prohibited Weeds—all weeds designated as noxious or prohibited weeds under §109.

Off-Type (Mutations)—plants or seeds which deviate in one or more characteristics from the breeder description filed with LDAF.

* * *

Other Weeds/Weed Seeds—all weeds and/or weed seeds which have not been designated as noxious weeds by the Commission.

* * *

Weight Unit—unit of measure, designated by the Commission, based on the most common industry accepted packaging weight in pounds for a specific commodity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:420 (February 2005), LR 37:2979 (October 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§503. Classes of Seed (Formerly §123)

A. The following classes of seed are recognized for purposes of this Chapter.

1. *Breeder Seed (White Tag)*—seed directly controlled by the originating or sponsoring plant breeding institution, firm or individual which is the source for the production of seed of the certified classes.

2. *Foundation Seed (White Tag)*—progeny of breeder or foundation seed, handled so as to maintain specific genetic purity and identity, production of which must be acceptable to LDAF.

3. *Registered Seed (Purple Tag)*—progeny of breeder or foundation seed, handled under procedures acceptable to LDAF to maintain satisfactory genetic purity and identity.

4. *Certified Seed (Blue Tag)*—progeny of breeder, foundation or registered seed, handled under procedures acceptable to LDAF to maintain satisfactory genetic purity and identity.

5. *Tree Seed*—

a. *Certified Tree Seed (Blue Tag)*—seed from trees of proven genetic superiority, produced so as to assure genetic identity. Seeds from interspecific hybrids of forest trees may be included.

b. *Selected Tree Seed (Green Tag)*—progeny of rigidly selected trees or stands of untested parentage that have promise but not proof of genetic superiority and for which geographic source and elevation is stated on the label.

c. *Source-Identified Tree Seed (Yellow Tag)*—seed from~~:~~ a natural stands with known geographic source and elevation, or plantations of known geographic origin and which is acceptable to LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 31:1510 (July 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§505. General Requirements for Certification (Formerly §127)

A. The crop or variety to be certified must have been approved for certification by LDAF.

B. The originator, developer, owner, or agent seeking to have the crop or variety of seed certified shall provide the following information to LDAF.

1. the name of the variety;

2. a statement concerning the variety's origin and the breeding procedure used in its development;

3. a detailed description of the morphological, physiological and other characteristics of the plants and seed that distinguish it from other varieties;

4. evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety;

5. a statement delineating the geographic area or areas of adaptation of the variety;

6. a statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;

7. a description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified;

8. any additional restrictions on the variety specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity;

9. a sample of seed representative of the variety as marketed.

C. To be certified, all crops and/or varieties must conform to:

1. all general requirements for certification; and

2. all specific requirements for certification of a particular crop or variety. (See §§701-811 for specific requirements. In §§701-811, the percentages shown for pure seed and germination are the minimum acceptable levels of performance required for certification; the percentages shown for all other factors are maximum allowable percentages.)

D. The grower must submit the application described in §507 on or before the date specified in §509 for the crop or variety to be certified. (See §507.B and §125.B for provisions concerning late applications.)

E. The crop or variety to be certified must be of breeder, foundation or registered seed, or seed approved by the commission.

F. The grower must maintain genetic purity during seeding, production, harvesting, storage, conditioning and labeling.

G. The grower must hand-rogue all off-type plants, varietal mixtures, noxious weeds or any other plants producing seed that are inseparable from seed of the crop or variety to be certified.

H. Other varieties or crops, volunteer plants and/or off-type plants cannot be present in the field, and seeds thereof cannot be present in seed to be certified, unless permitted under the specific certification standards for the crop or variety entered for certification. Noxious weeds are permitted in the field and seed thereof are permitted in seed to be certified, within the limitations specified in §109, unless a specific limitation on noxious weeds is contained in the specific requirements for the crop or variety entered for certification. (See §§701-811 for specific requirements.)

I. One or more field inspections will be made to determine genetic identity and purity. The crop or variety to be certified must be standing, reasonably free of weeds and of relatively uniform maturity at the time of field inspection(s). A copy of the field inspection report will be furnished to the grower.

J. All planting, harvesting, bin storage and cleaning equipment must be free of contamination by other seeds, insects, or plant diseases.

K. Storage facilities must be:

1. suitable for maintaining germination and varietal purity;

2. constructed so that a representative sample can be drawn; and

3. all such facilities are subject to approval by LDAF.

L. The grower must maintain complete records accounting for all production and final disposition of all certified seeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 20:1257 (November 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§507. Application for Field Certification
(Formerly §129)

A. The grower must apply for certification on or before the application deadline shown in §509 for seed stock to be certified by LDAF. The grower must submit a completed application on the form provided by LDAF.

B. - C.3. …

4. one sample tag from each lot number (If the grower plants seed of his own production, the class of seed and lot number shall be identified by documentation acceptable to LDAF); and

5. ...

D. It is the duty of the grower to notify LDAF at least two weeks prior to harvest of the anticipated harvest date for each field presented for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended, LR 12:825 (December 1986), LR 34:863 (May 2008), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§511. Limitations on Generations
(Formerly §133)

A. - B.1. …

2. one additional generation of certified seed may be permitted on a one-year basis when, prior to planting season, the Commission declares that there are insufficient supplies of foundation and registered seed to plant the needed acreage of the certified variety. Permission of the variety's originator, if existent, must be obtained. In this situation, the additional generation will not be eligible for recertification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§513. Lot of Seed
(Formerly §135)

A. - C. …

D. All seed must be bagged in new bags, unless other types of containers are approved by LDAF prior to bagging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§515. Seed Sampling
(Formerly §137)

A. - C.1. …

2. A LDAF inspector will sample at random, by probing, a specific number of bags from each lot. The number of bags to be sampled from each lot is as follows: five bags, plus 10 percent of the total number, not to exceed 30 bags per lot. In lots containing six bags or less, every bag will be sampled.

D. Sampling of Bulk Seed

1. Cleaned Seed in Bulk

a. A LDAF inspector will collect a minimum of four samples, at intervals of 4 feet, by probing the entire depth of the bin or storage area.

b. All samples will be blended into one representative sample for each bin or storage area.

2. Uncleaned Seed in Bulk

a. A LDAF inspector will collect a minimum of four samples, at intervals of 4 feet, by probing the entire

depth of the bin or storage area. All samples will be blended into one representative sample for each bin or storage area.

E. - F.1.e. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended, LR 12:825 (December 1986), LR 19:888 (July 1993), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§517. Listing of Certified Seed Conditioning Plants (Formerly §139)

A. Seed conditioning plants desiring to be listed in LDAF roster of seed conditioning plants must make a written application for inclusion on the list.

B. LDAF will issue certificates to all seed conditioning plants making application for inclusion on the listing, on an annual basis, each such certificate to expire on June 30 following date of issue.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:35 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§519. Processing of Certified Seed (Formerly §141)

A. Bagging

1. All seed approved for certification must be packaged in new 100 pound containers or less, except as provided by this subsection.

2. Registered class of rice and small grains (wheat and oats):

a. new super-bags or Q-Bit bulk containers (or its equivalent as determined by LDAF;

b. each super-bag or Q-Bit container of registered seed must be sealed in an LDAF approved manner that prevents removal and re-attachment without tampering being obvious. Seals shall be attached after filling and/or sampling is completed.

3. Certified class of rice and small grains (wheat and oats):

a. new or reusable super-bags or Q-Bit bulk containers (or its equivalent as determined by LDAF). Reusable containers shall be cleaned in a manner approved by LDAF.

B. General Labeling Requirements

1. Each container, regardless of size, of all classes of certified seed offered for sale must bear an official certification label issued by the LDAF.

2. - 5. …

6. The number of labels issued will be determined by the inspector's estimate of the quantity of seed at the time of sampling. All unused labels must be returned to LDAF.

7. Prelabeling

a. In order to permit owners or certifiers of seed to bag and label seed in advance of final laboratory reports, certification labels may be issued in advance. Such labels can be pre-issued upon receipt of completed field inspection reports showing that field production standards have been met. The state may grant a waiver on the movement of seed if an acceptable preliminary test is made on the seed lot. If prelabeled lots fail laboratory analysis standards, all labels shall be destroyed or returned to the LDAF. Failure to comply with this regulation will result in suspension of future prelabeling privileges.

8. The official certification label may be printed directly on the container with prior approval of LDAF.

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November l982), amended LR 9:196 (April l983), amended, LR 12:825 (December l986), LR 20:643 (June 1994), LR 31:35 (January 2005), LR 31:1510 (July 2005), LR 39:1758 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§521. Bulk Certification Requirements (Formerly §147)

A. Bulk certification shall be limited to the certified class of the following commodities:

1. small grains (wheat and oats);

2. rice.

B. Seed eligible for bulk certification shall meet all field and laboratory standards established for certified seed as specified in these regulations.

C. Seed certified in bulk shall not be eligible for recertification.

D. Seed certified in bulk shall only be sold by the applicant producer or by a retail facility approved by LDAF.

1. Each retail outlet shall have a procedure for handling bulk certified seed that is acceptable to LDAF for the purpose of assuring genetic purity and that the identity of the seed is maintained.

E. The seed owner is responsible for making application for bulk certification to LDAF and for securing LDAF's approval to use the facility in which the seed will be stored prior to storage of the seed at the facility.

F. Storage Requirements

1. A separate storage bin shall be available for each variety that will be sold in bulk.

2. Storage bins shall be constructed so that all bin openings can be sealed to prevent contamination and maintain genetic purity.

3. All bins shall be clearly and prominently marked to show crop and variety, until disposal of the entire lot is completed and the bin is properly cleaned to remove all remaining seeds or seed residue.

G. Seed sampling shall be conducted as provided in §515.D.

H. Certification

1. No certified seed tags will be issued for seed certified in bulk, except as provided by subsection I of this Section.

2. For sales to an approved retail facility within the state, a bulk certified seed transfer form shall be issued to cover all bulk certified seed which meets the general

requirements for seed certification and the specific requirements for the crop/variety being certified.

a. The seller shall provide a copy of the bulk certified seed transfer form to each purchaser at time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Transfer Form to LDAF at the time the form is completed.

c. The seller shall maintain a copy of each issued bulk certified seed transfer form in his file, which shall be available for examination by LDAF upon reasonable request.

3. For sales to the end user, a bulk certified seed sales certificate shall be issued to cover all bulk certified seed which meets the general requirements for seed certification and the requirements for the crop/variety being certified.

a. The seller shall provide a copy of the bulk certified seed sales certificate to each purchaser at the time of delivery.

b. The seller shall provide a copy of each issued bulk certified seed sales certificate to LDAF at the time the form is completed.

c. The seller shall maintain a copy of each issued bulk certified seed sales certificate in his file, which shall be available for examination by LDAF upon reasonable request.

I. If the owner of seed certified in bulk elects to package any portion of the lot, the owner shall give prior notification of his intention to package the seed to LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended, LR 12:825 (December 1986), LR 23:1283 (October 1997), LR 26:235 (February 2000), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§523. Interagency Certification (Out-of-State Seed) (Formerly §149)

A. Seed to be certified by interagency action must meet the seed certification standards established by the Seed Law and this Part or comparable standards of a seed certifying agency recognized by the commissioner.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended, LR 12:825 (December 1986), LR 23:1283 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2714 (October 2013), amended LR 40:

Chapter 7. Certification of Specific Crops/Varieties

Subchapter A. Grasses and Clovers

§715. California Bulrush (*Schoenoplectus californicus*) Clonally Propagated Plant Certification Standards (Formerly §171)

A. LDAF shall issue numbered certified bulk sales certificates or tags when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates or tags shall accompany each shipment of certified vegetatively propagated stock.

B. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by LDAF and submitted to an LDAF approved laboratory for testing in accordance with the following guidelines:

a. Foundation Class

i. Fingerprinting is required within one year of transplant and every other year thereafter.

ii. Ponds—one sample/1000 sq. ft., with a minimum of five samples per pond.

iii. Containers—10 percent, with a minimum of five samples.

b. Registered Class

i. Fingerprinting is required within one year of transplant and every three years thereafter.

ii. Ponds—one sample/1000 sq. ft., with a minimum of five samples per pond.

iii. Containers—5 percent, with a minimum of five samples.

c. Certified Class—certified class is not required to be DNA fingerprinted.

2. LDAF shall have the right to re-inspect, re-sample and re-test production ponds or containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification. Resampling of plots or containers/tanks that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

3. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the genetic purity of a production plot or container/tank has been jeopardized by any means prior to final certification.

C. Production Requirements. To be eligible for the production of all certified classes, production ponds and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of California bulrush and noxious and objectionable weeds.

1. Pond Requirements

a. Ponds shall be contained by levees.

b. Only one variety shall be grown per pond.

c. Ponds of different varieties must be separated by the minimum isolation distance at all points.

d. Ponds must have individual water supplies and water drainage capabilities for each produced variety.

e. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

2. Container/Tank Requirements

a. Soil used for container/tank production shall:

i. come from an area that has not produced california bulrush for a minimum of one year; and

ii. be free of visible california bulrush rhizomes and stems prior to transplanting.

b. Only one variety shall be grown per container/tank.

c. Different varieties shall be grown in separate tanks and shall have individual water supplies and drainage capabilities.

d. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

D. Grower Inspections

1. Ponds and containers shall be inspected by grower to ensure that all requirements of this Section are being met.

E. LDAF Inspections. Production ponds and containers/tanks shall be made accessible for inspection by the grower.

1. Ponds and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure ponds and containers/tanks are free of volunteer california bulrush plants and noxious and objectionable weeds. All ponds and containers/tanks shall be non-flooded at time of pre-plant inspection.

2. Ponds and containers/tanks shall be inspected by LDAF a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

F. Field Standards Production Ponds/Containers/Tanks

Factor	Foundation	Registered	Certified
Maximum Unit Life(1)	4 years	6 years	Unlimited
Land Requirements	1 year	1 year	1 year
Isolation:			
Pond Production	20 ft.	20 ft.	20 ft.
Tank Production	One variety per tank	One variety per tank	One variety per tank
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified
Plant Variants:			
Fingerprints	1%	2%	Not Applicable
Visual Inspections	3 plants per 5,400 ft^2	5 plants per 5,400 ft^2	10 plants per 5,400ft^2
Harmful Diseases(2)	None	None	None
Noxious or Objectionable Weeds(3)	None	None	≤ 5 plants per 5,400 ft^2
Other Crops(4)	None	None	≤ 5 plants per 5,400 ft^2

(1) Production unit life from date of transplant. No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section.
(2) Diseases determined in accordance with the Louisiana Ag Experimental Station and LDAF to seriously affect the quality of seed or vegetatively propagated stock.
(3) Including, but not limited to following weed species: *Cyperus spp*. (Sedge), *Eleocharis spp*. (Spikerush), *Phragmites australis* (Roseau cane), *Typha spp*. (Cattail).
(4) Including, but not limited to the following crop species: *Spartina alterniflora* (Smooth cordgrass), *Spartina patens* (Marshhay cordgrass), *Spartina cynosuroides* (Big cordgrass), *Spartina spartinae* (Gulf cordgrass), *Distichlis spicata* (Saltgrass), *Paspalum vaginatum* (Seashore paspalum).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2980 (October 2011), LR 39:1759 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§717. Sea Oats (*Uniola Paniculata*) Clonally Propagated Plant Certification Standards (Formerly §183)

A. LDAF shall issue numbered certified bulk sales certificates or tags when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates shall accompany each shipment of certified vegetatively propagated stock.

B. Production Requirements. To be eligible for the production of all certified classes, plots and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of sea oats and noxious and objectionable weeds.

1. Plot Requirements

a. Only one variety of sea oats shall be grown per plot.

b. Plots of different varieties must meet the minimum isolation distance at all points.

c. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

2. Container/Tank Requirements

a. Soil used for container/ tank production shall:

i. come from an area that has not produced sea oats fora minimum of one year

ii. be free of visible sea oats rhizomes and stems prior to transplanting.

b. Only one variety of sea oats shall be grown per production tank.

c. Different varieties shall be grown in separate tanks units unless individual varieties are separated by solid sided partition that will not allow rhizomes or stem material to spread between or within tank units.

d. All seed heads shall be routinely removed from plants after flowering begin to ensure viable seed are not produced.

C. Grower Inspections. Plots and containers shall be routinely inspected by grower to ensure that all requirements of this Section are being met.

D. LDAF Inspections. Production plots and containers/tanks shall be made accessible for inspection by the grower.

1. Plots and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure they are free of volunteer sea oat plants and noxious and objectionable weeds.

2. Plots and containers shall be inspected by LDAF inspectors a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

E. Field Standards—Production Plots/Containers/Tanks

Factor	Foundation	Registered	Certified
Maximum Unit Life(1)	4 years	6 years	Unlimited
Land Requirements	1 year	1 year	1 year
Isolation:			
Plot Production	30 ft.	30 ft.	30 ft.

Factor	Foundation	Registered	Certified
Tank Production	One variety per tank	One variety per tank	One variety per tank
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified
Plant Variants	3 plants per 5,400 ft^2	5 plants per 5,400 ft^2	10 plants per 5,400 ft^2
Harmful Diseases(2)	None	None	None
Noxious or Objectionable Weeds(3)	None	None	≤ 5 plants per 5,400 ft^2
Other Crops(4)	None	None	≤ 5 plants per 5,400 ft^2

(1) Maximum production unit life from transplant date. No maximum age for a certified production unit so long as the unit continues to meet all requirements of this Section.
(2) Diseases determined in accordance with the Louisiana Ag Experiment Station and the LDAF to seriously affect the quality of seed or vegetatively propagated stock.
(3) Including but not limited to the following weed species: Cyperus spp. (Sedges), Panicum repens (Torpedograss), Phragmites australis (Roseau cane), *Fimbristylis spp*. (Fimbristylis), *Tamarix spp*. (Salt cedar), *Cenchrus spp*. (Sandbur), *Suaeda linearis* (Sea-blite), *Acacia farnesiana* (Sweet acacia).
(4) Including but not limited to the following crop species: *Spartina patens* (Marshhay cordgrass), *Spartina Spartinae* (Gulf cordgrass), *Sporobolus virginicus* (Dropseed), *Distichlis spicata* (Saltgrass), *Schizachyrium maritimum* (Seacoast bluestem), *Paspalum vaginatum* (Seashore paspalum), *Panicum amarum* (Beach panicgrass).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2980 (October 2011), LR 39:1759 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§719. Smooth Cordgrass (*Spartina alterniflora*) Certification Standards (Formerly §193)

A. LDAF shall issue numbered certified bulk sales certificates or tags when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates or tags shall accompany each shipment of certified seed or vegetatively propagated material.

B. Definitions. The following words and terms when used in this Section, shall have the following meanings, unless the context clearly indicates otherwise.

Generation 1 (G1)—the vegetative increase of tested class G0.

Generation 2 (G2)—the seed production or vegetative increase of tested class G1.

Generation 3 (G3)—the seed production of tested class G1 or G2.

Tested Germplasm—the progeny of plants whose parentage has been tested and has proven genetic superiority or possess distinctive traits for which the heritability is stable.

C. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by the LDAF and submitted to an LDAF-approved laboratory for testing in accordance with the following guidelines:

a. Foundation and Tested Generation One (G1)

i. Fingerprinting is required within one year of transplant and every other year thereafter.

ii. Ponds—one sample/1000 ft^2, with a minimum of five samples per pond.

iii. Containers—10 percent, with a minimum of five samples.

b. Registered and Tested Generation Two (G2)

i. Fingerprinting is required within one year of transplant and every three years thereafter.

ii. Ponds—one sample/1000 ft^2, with a minimum of five samples per pond.

iii. Containers—five percent, with a minimum of five samples.

c. Certified and Tested Generation Three (G3)

i. Fingerprinting is required within one year of transplant and every five years thereafter.

ii. Ponds—one sample/1000 ft^2, with a minimum of five samples per pond.

iii. Containers—five percent, with a minimum of five samples.

d. Seed Production Ponds

i. Fingerprinting is required within one year of transplant to ensure that there are no clones other than those defined by the breeder.

ii. One sample/4400 square feet with a minimum of five samples.

2. LDAF shall have the right to re-inspect, re-sample and re-test production ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

a. Resampling of ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

3. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the genetic purity of a production pond or container/tank has been jeopardized by any means prior to final certification.

D. Production Requirements. To be eligible for the production of all certified classes, production ponds and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of smooth cordgrass and noxious and objectionable weeds.

1. Pond Requirements of Vegetatively Propagated Stock

a. Ponds shall be contained by levees;

b. Only one variety shall be grown per pond;

c. Ponds of different varieties must be separated by the minimum isolation distance at all points;

d. Ponds must have individual water supplies and water drainage capabilities for each produced variety;

e. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced;

f. Vegetative production ponds of the "certified class" only may be located within natural tidal influenced areas.

2. Container/Tank Requirements of Vegetatively Propagated Plant Stock

a. Soil used for container/tank production shall:

i. come from an area that has not produced smooth cordgrass for a minimum of one year; and

ii. be free of visible smooth cordgrass rhizomes and stems prior to transplanting.

b. Only one variety shall be grown per container/tank.

c. Different varieties shall be grown in separate tanks and shall have individual water supplies and drainage capabilities.

d. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

3. Seed Production Pond Requirements

a. Ponds shall be contained by levees.

b. Ponds containing different varieties must be separated by the minimum isolation distance at all points.

E. Grower Inspections

1. Production ponds, tanks, and containers shall be routinely inspected by the grower to ensure that all requirements of this Section are being met.

F. LDAF Inspections. Production ponds and containers/tanks shall be made accessible for inspection by the grower.

1. Production ponds and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure production ponds and containers/tanks are free of volunteer smooth cordgrass plants and noxious and objectionable weeds. All ponds and containers/tanks shall be non-flooded at time of pre-plant inspection.

2. Shall be inspected by LDAF a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

G. Field Standards Production Ponds/Containers/Tanks

Factor	Foundation and Tested G1 Germplasm	Registered and Tested G2 Germplasm	Certified and Tested G3 Germplasm	Seed Production Fields (All Generations)
Maximum Unit Life (1)	4 years	6 years	Unlimited	5 years
Land Requirements	1 year	1 year	1 year	1 year
Isolation:				
Pond Production	20 ft.	20 ft.	20 ft.	1200 ft.
Tank Production	One variety per tank	One variety per tank	One variety per tank	N/A
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	N/A
Plant Variants:				
DNA Fingerprints	1%	2%	25%	25%
Visual Inspections	3 plants per 5,400 ft^2	5 plants per 5,400 ft^2	10 plants per 5,400 ft^2	10plants per 5,400 ft^2
Harmful Diseases (2)	None	None	None	None
Noxious or Objectionable Weeds (3)	None	None	≤ 5 plants per 5,400 ft^2	≤ 5 plants per 5,400 ft^2
Other crops (4)	None	None	≤ 5 plants per 5,400 ft^2	≤ 5 plants per 5,400 ft^2

(1) Production unit life from date of transplant. No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section.

(2) Diseases determined in accordance with the Louisiana Ag Experiment Station and LDAF to seriously affect the quality of seed or vegetatively propagated stock.

(3) Including, but not limited to the following weed species: *Salvinia* spp. (Salvinia), *Cyperus* spp. (Sedge), *Eleocharis* spp. (Spike rush), *Phragmites australis* (Roseau cane), *Typha* spp. (Cattail).

(4) Including, but not limited to the following crop species: *Spartina patens* (Marshhay cordgrass), *Spartina cynosuroides* (Big cordgrass), *Spartina spartinae* (Gulf cordgrass), *Distichlis spicata* (Saltgrass), *Schoenoplectus californicus* (California bulrush), *Paspalum vaginatum* (Seashore paspalum).

H. Seed Standards

1. All generations of seed shall contain a pure seed content, excluding coating material, of not less than 90 percent.

2. All seed packages shall be labeled in such a manner as to meet the minimum seed labeling requirement of the Seed Law, this Part, and the Federal Seed Act and accompanying rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2983 (October 2011), LR 39:1761 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§723. Turf and Pasture Grass Certification Standards (Formerly §219)

A. - A.3. …

*A grower may increase his acreage on his own farm on a limited basis with the approval of LDAF.

B. - B.1.a. …

b. A recommended soil fumigation may be applied by a licensed applicator, followed by an inspection by LDAF a minimum of four weeks after the application, to ensure no emergence of noxious and objectionable weeds prior to planting.

C. Field Inspections. Turf Grasses and Pasture Grasses entered into the certification program shall be inspected at least three times a year: first (April-May); second (August-September); third (December-January) to ensure the quality of the grasses has met or exceeded the minimum standards set forth in these regulations. If a field is found to be deficient in meeting the standards then the producer has the option of spot roguing the undesirable, if LDAF deems possible, and call for a re-inspection of the crop.

D. - E. …

F. Reporting System

1. Issuing Certificates

a. The grower will be issued numbered certificates of certification and tags by LDAF upon request that must accompany each load of certified grass sold.

b. The grower is responsible for completing the forms and returning the appropriate copies to LDAF within 10 working days of issuance.

2. Tagging System

a. Upon meeting the standards set forth in these regulations the certified crop must have attached to the invoice two tags:

i. one from the seed certification division; and

ii. one from the horticulture division of LDAF.

b. This two-tag system shall distinguish the crop to have met or exceeded the requirements set by both divisions of LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 9:204 (April 1983), amended, LR 12:825 (December 1986), LR 16:847 (October 1990), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

Subchapter B. Grain and Row Crop Seeds

§741. Cottonseed Seed Certification Standards (Formerly §165)

A. ...

B. Handling and Storage Requirements

1. Ginning. Cottonseed in all classes of certification, to be certified, shall be ginned on a thoroughly cleaned, one-variety gin approved by LDAF prior to ginning. With special permission of the Department of Agriculture and Forestry:

a. cottonseed for all classes of certification may be ginned on thoroughly cleaned, mixed variety gins either with:

i. a notarized ginner's agreement previously approved by LDAF, or

ii. in the presence of a LDAF inspector.

b. cottonseed produced for only the certified class may be ginned on a mixed-variety gin if a minimum of three bales are "blown" through the gin prior to catching of the cottonseed to be certified. An inspector of LDAF may be present if cottonseed for certification is ginned under special permission.

2. Delinting. Delinters must conform to the same requirements set forth for ginners. No cottonseed entered for certification may be delinted outside the state of Louisiana except by special permission of LDAF.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 8:570 (November 1982), amended LR 9:199 (April 1983), LR 10:737 (October 1984), amended, LR 12:825 (December 1986), LR 13:156 (March 1987), repromulgated LR 13:232 (April 1987), amended LR 18:954 (September 1992), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2723 (October 2013), amended LR 40:

§743. Hybrid Seed Corn Certification Standards (Formerly §173)

A. - C.4.a.ii. …

b. Sucker tassels, portions of tassels or tassels on main plants will be counted as shedding pollen when 2 inches or more of the central stem, the side branches, or a combination of the two have anthers extended from the glumes. In cases where a few silks are out and tassels of the seed parent have begun to shed pollen, the field can be approved by immediate and complete detasseling of the seed parent and removal of the ear shoots with exposed silks, if done to the satisfaction of LDAF.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November l982), amended LR 9:197 (April l983), amended, LR 12:825 (December l986), LR 13:156 (March 1987), repromulgated LR 13:232 (April l987), amended LR 15:613 (August 1989), LR 20:643 (June 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§755. Sweet Potato Certification Standards (Virus and Non Virus-Tested) (Formerly §191)

A. ...

B. The following definitions apply to this Section only.

* * *

Source Seed—material entering the LAES seed program obtained by methods acceptable to LDAF.

* * *

C. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:1220 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2725 (October 2013), amended LR 40:

§763. Sugarcane (Tissue Culture) Certification Standards (Formerly §207)

A. - A.1. …

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, LDAF, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

A.3. - B.3. …

a. Tissue sample testing and protocol shall be provided by the LSU Ag Center Sugarcane Disease Detection Lab. The certifier shall provide to LDAF verification that foundation stock has been tested for sugarcane ratoon stunting disease (RSD) and sugarcane yellowleaf virus.

4. - 5.c. …

C. Field Inspections and Sampling

1. At least three field inspections by LDAF inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The second inspection to be conducted in June by LDAF inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. Individual fields shall be sampled by LDAF inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

4. ...

5. LDAF shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for Sugarcane Yellow Leaf Virus prior to certification.

D. - F.1.b. …

c. Planting stock shall be subject to inspection by LDAF at any time during the harvest season.

G. Reporting System

1. ...

2. The certifier shall be furnished certification forms by the LDAF and shall:

a. …

b. send a copy of each issued certification form to LDAF within 10 days after each sale; and

c. maintain a copy of each issued certification form on file, which shall be available for examination by LDAF upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended, LR 33:1609 (August 2007), LR 36:1223 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

Subchapter C. Fruits and Vegetables

§785. Shallot Seed Certification Standards (Formerly §197)

A. - C.3. …

4. Seed severely infested with bulb mites shall not be eligible for certification. Seed lightly infested with bulb mites must be treated in a manner prescribed by LDAF before certified permit tags will be issued.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:583 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

Chapter 9. Approved Plant Breeders

§903. Definition of Terms Used (Formerly §225)

* * *

Entomologist—the LDAF entomologist.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§905. Professional Services for which an Approved Plant Breeder is Required (Formerly §227)

A. ...

B. Any individual, firm or corporation desiring to be granted the status of a commercial plant breeding firm must submit to the commission a general outline of their proposed methods of seed production for the breeder class of seed. This outline of methods of production must be approved by the commission. This firm must also have an approved plant breeder who has qualified under §907 of these regulations. Production of all breeder seed must be under the direct and active supervision of the plant breeder. This firm's complete plant breeding and seed increase setup must be open to inspection by personnel of the state seed certifying agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§907. Qualifications for Approved Plant Breeders (Formerly §229)

A. To be recognized officially by LDAF as an approved plant breeder, a person must either:

1. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

Chapter 11. Adulterated Seed Stock and other Propagating Stock

Subchapter A. Rice Seed Stocks Containing the Presence of LibertyLink Traits

§1101. Planting of Rice Seed Stock with LL Traits (Formerly §301)

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§1103. Planting of all Rice Seed Stocks (Formerly §303)

A. Rice seed stocks, where the variety as a whole is found to test positive, according to tolerances established by LDAF, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice seed stock is found to test positive for LL traits, according to tolerances established by LDAF, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), Amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:

§1105. Sampling of Rice Seed Stock to Detect LL Traits (Formerly §305)

A. Samples of all rice seed stocks shall be taken by the Louisiana Department of Agriculture and Forestry (LDAF) for testing. LDAF shall conduct the testing or cause the testing to be done in laboratories approved by LDAF. LDAF shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by LDAF.

C. All costs incurred by LDAF in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§1107. Rice Seed Stock Originating from Out-of-State (Formerly §307)

A. All rice seed stocks originating from out-of-state must meet the requirements for sampling, testing, and handling, as established by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

§1111. Stop-Sale (Formerly §311)

A. Any lot of rice seed that is subject to the requirements of this Chapter that tests positive for LL traits, according to tolerances established by LDAF, shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2593 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:

Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed action.

Poverty Impact Statement

It is anticipated that the proposed action will have no significant effect on: (1) household income, assets, and financial security; (2) early childhood or educational development; (3) employment and workforce development; (4) taxes and tax credits; or (5) child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.2-965.8). The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Written submissions are to be directed to Lester Cannon, Assistant Director for the Seed Division, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on January 24, 2014. No preamble regarding the proposed action is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Seeds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action is not anticipated to have a material effect on governmental costs or savings. The proposed action makes changes to rules and regulations to incorporate the merger of the Feed, Fertilizer, and Agricultural Liming Commission and the Seed Commission as a result of the passage of Act 26 of the 2013 Regular Legislative Session. Changes made by the proposed action include repealing duplicative or obsolete provisions, revising certification standards to meet the current industry standards for certifying the seeds of California Bullrush, Sea Oats, and Smooth Cordgrass, and making the rules and regulations easier for the public and the industry to use and understand.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a material effect on governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action is not anticipated to have a material effect on the costs or economic benefits of directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1312#044	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Economic Stability Section

Supplemental Nutritional Assistance Program (SNAP)
(LAC 67:III.1907 and 1987)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Certification of Eligible Households, Subchapter B, Application Processing, Section 1907, Expedited Service—Initial and Subsequent Month Benefits, and Subchapter J, Determining Household Eligibility and Benefit Levels, Section 1987, Categorical Eligibility for Certain Recipients.

Section 1907 is being amended to provide clarification regarding expedited processing standards.

Section 1987 is being amended to repeal broad-based categorical eligibility rules for households that receive only non-cash Temporary Assistance for Needy Families/Maintenance of Effort (TANF/MOE) funded benefit or service.

Pursuant to the authority granted to the department by the Food and Nutrition Services (FNS), the department considers these amendments necessary to add clarification and to facilitate the expenditure of SNAP funds.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 3. Supplemental Nutritional Assistance Program (SNAP)
Chapter 19. Certification of Eligible Households
Subchapter B. Application Processing
§1907. Expedited Service—Initial and Subsequent Month Benefits

A. Eligible households that apply after the fifteenth of the month under the expedited processing standards shall be certified the initial month with prorated benefits and for the subsequent month with full benefits.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., and 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:

Subchapter J. Determining Household Eligibility and Benefit Levels
§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

1. Households in which a member is a recipient of benefits from the FITAP, STEP, and/or Kinship Care Subsidy Program, and households in which all members are recipients of SSI, shall be considered categorically eligible for SNAP.

2. "Recipient" includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. "Recipient" shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than $10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. the household is disqualified for failure to comply with the work registration requirements;

c. any member of the household is ineligible because of a drug related felony.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a social security number;

f. an individual who is on strike.

6. Households which are categorically eligible are considered to have met the following food stamp eligibility factors without additional verification:

a. resources;

b. Social Security numbers;

c. sponsored alien information;

d. residency.

7. These households also do not have to meet the gross and net income limits, but verification of income not counted for TANF/SSI is required (e.g., educational assistance). If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all SNAP eligibility factors except as outlined above.

9. Changes reported by categorically-eligible SNAP households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of $10. Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's SNAP eligibility and benefit level shall be based on SNAP eligibility criteria. However, the local office shall postpone denying a potentially categorically-eligible household until the thirtieth day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the thirtieth day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application re-signed by the authorized representative or authorized household member.

5. If eligibility for public assistance is determined within the 30-day SNAP processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the SNAP application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the SNAP application, whichever is later.

C. Certified households which become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the date of the SNAP application, whichever is later. These additional benefits shall be provided through restoration.

D. For SNAP purposes, refugee cash assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

E. - E.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274, F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2, (j), and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2531 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule is not anticipated to have an effect on the family's stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule is not anticipated to an effect on family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Public Comments

All interested persons may submit written comments through, January 28, 2014, to Lisa Andry, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on January 28, 2014 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Supplemental Nutritional Assistance Program (SNAP)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code (LAC) 67:III Supplemental Nutritional Assistance Program (SNAP) rule that affects certification of eligible households and repeals the SNAP rule regarding categorical eligibility for certain households. The proposed rule amends Section 1907 entitled Expedited Service—Initial and Subsequent Month Benefits to provide clarification regarding expedited processing standards. Also, the proposed rule repeals Section 1987 entitled Categorical Eligibility for Certain Recipients.

The proposed amendment to Section 1907 is technical and Section 1987 repeals the broad-based categorical eligibility provision for SNAP benefits that provided immediate access to SNAP benefits to individuals and families affected by the British Petroleum (BP) oil spill. Prior to the Section 1987 broad-based categorical eligibility provision, these individuals and families may not have otherwise been eligible. The repeal of Section 1987 will not impact the overall revenues or expenditures of the department in FY 14 and future fiscal years.

The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that $1,148 ($574 SGF and $574 FED) will be expended in FY 13-14 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)

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have no cost or economic benefit to non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Brent Villemarette	Evan Brasseaux
Deputy Secretary	Staff Director
1312#057	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Economic Stability Section

Student Financial Assistance Grants (LAC 67:III.5599)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to adopt LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5599, Louisiana Student Financial Assistance Grants.

Pursuant to Louisiana's TANF block grant, adoption of Section 5599 is necessary to govern the collection of eligible tuition expenditures for low income students that may be counted as maintenance of effort (MOE) for the TANF grant.

This proposed Rule was made effective by an Emergency Rule dated and effective November 1, 2013.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5599. Louisiana Student Financial Assistance Grants

A. The department, through an agreement with the Louisiana Office of Student Financial Assistance (LOSFA), shall collect information on tuition assistance expenditures provided to eligible low income students who are pursuing postsecondary education for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective TANF state plan FY 2011 for the Temporary Assistance for Needy Families (TANF) grant. The eligible tuition assistance expenditures that may be claimed as MOE are from the following programs.

1. *Louisiana Go Grants*—a need based student financial aid grant that supports nontraditional and low income students in their pursuit of postsecondary education. To receive the Go Grants, a student must be receiving a federal Pell grant and have remaining financial need, as determined in accordance with a formula established by the Louisiana Board of Regents. The formula for determining financial need is subject to change on a yearly basis in order to ensure that the greatest number of students will benefit from the funds appropriated for the program by the Louisiana Legislature.

2. *Taylor Opportunity Program for Students (TOPS)*—a state scholarship program for Louisiana residents who attend Louisiana postsecondary institutions.

B. These services meet TANF goal three, to prevent and reduce the incidence of out-of-wedlock pregnancies, by providing financial aid to eligible students who are pursuing postsecondary education. The services provide the students with the tools necessary to reduce risky behaviors and increase positive decision making.

C. Financial eligibility for these services attributable to TANF/maintenance of effort (MOE) funds is limited as follows.

1. Certification for TANF MOE for Go Grant expenditures will be those students who receive Pell Grants and have a remaining financial need and are defined as dependent by the U.S. Department of Education. The amount used for TANF maintenance of effort is not duplicated in determining match or maintenance of effort for any other program.

2. TANF eligibility for students receiving TOPS will be determined by receipt of a Go Grants. Certification for TANF MOE for TOPS expenditures will be for those students who simultaneously receive TOPS and Go Grants and are defined as dependent by the U.S. Department of Education.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 40:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the family's stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no negative effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no negative effect on family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Public Comments

All interested persons may submit written comments through January 23, 2014, to Lisa Andry, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on January 23, 2014 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, seminar room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Student Financial Assistance Grants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This Rule proposes to continue the provisions of the November 1, 2013 Emergency Rule that adopts Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5599 Louisiana Student Financial Assistance Grants. The proposed Rule stipulates that the secretary of the Department of Children and Family Services (DCFS) has authority to adopt Section 5599 Louisiana Student Financial Assistance Grants to claim eligible expenditures that may be counted as Maintenance of Effort (MOE) for Louisiana's federal TANF grant.

The department, through an agreement with the Louisiana Office of Student Financial Assistance (LOSFA), shall collect information on tuition assistance expenditures provided to eligible low-income students who are pursuing postsecondary education for the purpose of claiming eligible expenditures that may count as MOE towards the federal TANF grant retroactive to the TANF State Plan FY 2011.

The proposed Rule will not impact the overall revenues or expenditures of the department. The Rule allows the department to maintain their federal TANF grant funding. The only cost associated with this proposed Rule is the cost of publishing rulemaking. It is anticipated that $1,148 ($0 SGF and $1,148 FED) will be expended in FY 13-14 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)

Implementation of this proposed Rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will have no cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed Rule will not have an impact on competition and employment for low-income families.

Brent Villemarette	Evan Brasseaux
Deputy Secretary	Staff Director
1312#056	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs—Finance
(LAC 28:CLIII.501)

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 133—Scholarship Programs*: §501, Finance. The proposed policy establishes that the Louisiana Department of Education shall annually set a timeline for the independent financial audit required by law.

Title 28
EDUCATION
Part CLIII. Bulletin 133—Scholarship Programs
Chapter 5. Finance
§501. Finance

A. - E.1. …

2. The LDE shall annually set a timeline for the independent financial audit required by statute.

E.3. - H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3130 (December 2012), amended LR 40:

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? No.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., January 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 133
Scholarship Programs—Finance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will have no effect on state or local governmental units. Independent financial audits are already required by law. The proposed policy will establish a timeline for these audits to occur earlier during the school year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1312#019	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 134—Tuition Donation Rebate Program
(LAC 28:CLV.303, 311, 501, 505,
703, 705, 1103, 1107, and 1109)

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 134—Tuition Donation Rebate Program*, §303, Awarding of Scholarships, §311, Scholarship and Tuition Payments, §501, Donations; Qualifications, §505, Rebates, §703, School Tuition Organization Advertising, §705, Annual Report, §1103, Enrollment of Scholarship Recipients, §1107, Transfer/Withdrawal of Scholarship Students, and §1109, Testing of Scholarship Students.

Title 28
EDUCATION
Part CLV. Bulletin 134—Tuition Donation Rebate Program
Chapter 3. School Tuition Organizations
§303. Awarding of Scholarships

A. - C. …

D. School tuition organizations shall provide educational scholarships to students without limiting available scholarships to students of only one qualified school.

E. - G. …

H. Any qualified student receiving a scholarship from a school tuition organization shall be prohibited from receiving any other publicly funded scholarship, voucher, or other form of public financial assistance specific to that student for purposes of attending a nonpublic school.

I. - I.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1025 (April 2013), amended LR 40:

§311. Scholarship and Tuition Payments

A. …

B. Upon receipt of notification from a qualified school that a student who has received a scholarship has ceased to be enrolled in the school, the school tuition organization shall cease making payments to the school for that student.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1025 (April 2013), amended LR 40:

Chapter 5. Donations to School Tuition Organizations and Rebates

§501. Donations; Qualifications

A. - B. …

C. The LDE shall certify and issue a receipt to a taxpayer indicating the actual amount of the taxpayer's donation to a school tuition organization which was used to fund a scholarship after all of the requirements of this Rule have been satisfied. The school tuition organization which received the donation shall assist the taxpayer in obtaining the receipt from LDE.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:

§505. Rebates

A. - C.2. …

3. The LDE transmits an electronic file to the Department of Revenue verifying that the LDE has issued taxpayer receipts to the taxpayer or to the school tuition organization, on behalf of the taxpayer, when the taxpayer has authorized the school tuition organization to collect the receipt on the taxpayer's behalf. The electronic file should include the following information for each receipt:

3.a. - 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:

Chapter 7. School Tuition Organization Fiscal and Advertising Responsibilities

§703. School Tuition Organization Advertising

A. - C.5. …

D. For school tuition organization to adequately advertise the availability of scholarships to the public, all school tuition organization advertisements must not:

1. discriminate against students for any reason, including, but not limited to, race or ethnicity, religion, academic performance, students with a disability, or gender;

2. guarantee enrollment to any nonpublic school;

3. indicate that a school tuition organization's student application directly affects the status of a student's application for participation in the Student Scholarships for Educational Excellence Program; or

4. contradict any other requirement listed in R.S. 47:6301 or this policy Rule.

F. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:

§705. Annual Report

A. - A.10. …

B. Each school tuition organization and the LDE shall redact all names of taxpayers and social security numbers or tax identification numbers before publicly releasing any annual report.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 40:

Chapter 11. Qualified Schools

§1103. Enrollment of Scholarship Recipients

A. …

B. If more first-time qualified students who are otherwise eligible apply than there are seats available in a particular grade level, the school shall conduct a random selection process that ensures all qualified and otherwise eligible students an equal chance for admission; however, the qualified school may give preference for the following:

B.1. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1028 (April 2013), amended LR 40:

§1107. Transfer/Withdrawal of Scholarship Students

A. If a student who has received a scholarship ceases to be enrolled in a qualified school, the school shall immediately notify the respective school tuition organization and the LDE that the student is no longer enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1028 (April 2013), amended LR 40:

§1109. Testing of Scholarship Students

A. Using funds retained for administrative costs by the school tuition organization, schools enrolling participating students shall annually administer the state test associated with the school and district accountability system to measure learning gains in math and language arts to each participating qualified student in grades that require testing under the state's accountability and testing laws for public schools.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1028 (April 2013), amended LR 40:

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? No.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., January 8, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 134—Tuition Donation Rebate Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy changes will have no effect on costs or savings to state or local governmental units.

The policy changes bring the rules into compliance with statutory provisions, provide additional flexibilities in obtaining donation receipts, clarify with respect to enrollment and testing of scholarship recipients and correct technical errors.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
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NOTICE OF INTENT

Department of Economic Development
Office of Business Development

Zone Program (LAC 13:I.Chapter 7)

These Rules are being published as a Notice of Intent to bring them into alignment with Act 423 of the 2013 Regular Session of the Louisiana Legislature. The Department of Economic Development, Office of Business Development,

as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby proposes to amend and reenact §§701 through 749 and enact Section 751 for the administration of the Enterprise Zone Program.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 7. Enterprise Zone Program
§701. Scope and Qualifications

A. Intent of Program. The intent of the program is to stimulate employment for residents in depressed areas of the state that are designated as enterprise zones by providing tax incentives to a business hiring from these areas.

B. Description of Program. The Louisiana Enterprise Zone Program is a jobs program that gives tax incentives to a business hiring from certain specified targeted groups of individuals. Enterprise Zone Program incentives are in addition to other state-sponsored incentives such as the Industrial Tax Exemption Program and the Restoration Tax Abatement Program. Enterprise Zone and Quality Jobs Programs are mutually exclusive.

C. Incentives. The following incentives are available:

1. a one-time tax credit of $2,500 for each net new job;

2. in lieu of the §701.C.1 tax credit, a one-time tax credit of $5,000 for each net new job for the following businesses:

a. aviation and aerospace industries as defined in the NAICS industries 336411, 336412, 336413 or 332912;

b. the rubber manufacturing industry as defined in the NAICS industry 326211 (until June 30, 2012); or

c. auto parts manufacturers as defined in the NAICS industry group 3363 (until June 30, 2009);

3. in addition to the §701.C.1 and §701.C.2 tax credits, a one-time tax credit of $2,500 for each recipient of Temporary Assistance for Needy Families (TANF) hired by a business. The TANF recipient must receive compensation which will disqualify them from continued participation in TANF and must be employed for two years to generate the additional tax credit. An employer shall not obtain the jobs tax credit for more than 10 TANF employees in the first year of participation in the program;

4. rebates of sales and use taxes imposed by the state, and sales and use taxes imposed by its political subdivisions upon approval of the governing authority of the appropriate taxing political subdivision, on all eligible purchases during a specified project period of not more than 30 months:

a. sales and use taxes imposed by a political subdivision which are dedicated to the repayment of bonded indebtedness or dedicated to schools shall not be eligible for rebate;

b. a business seeking a local sales and use tax rebate must obtain an endorsement resolution specific to the project from each political subdivision levying the taxes to be rebated. The endorsement resolution must clearly state the intention to rebate sales and use taxes as allowable for the project. The endorsement resolution must be adopted prior to board approval of the application, or if the project cost is greater than one hundred million dollars, prior to the project ending date;

5. in lieu of the §701.C.4 rebates, a refundable investment tax credit equal to one and one-half percent of the amount of qualified expenditures for assets that are located at the project site and are placed in service during the project period.

D. The §701.C.1, §701.C.2, and §701.C.3 tax credits may be used to satisfy state income tax and franchise tax liabilities, and may be taken on the tax return for the year in which the credit was created, or it may be taken on the tax return for a future year. If the entire tax credit cannot be used in the year created, the remainder may be applied against state income tax and franchise tax liabilities for the succeeding 10 years from the year in which the credit was created or until the entire credit is used, whichever occurs first.

E. Qualifications

1.a. To qualify for the Enterprise Zone Program, a business must create permanent full-time net new jobs that are at least equal to the lesser of:

i. five jobs, created within the first two years of the contract period; or

ii. the number of jobs equal to a minimum of 10 percent of the employees employed throughout the United States by the business and its affiliates, a minimum of one, created within the first year of the contract period.

b. For good cause shown, the board may grant an extension of not more than two years to comply with the above job creation requirements.

2. For projects with advance notifications filed with Business Incentives Services prior to the effective date of the 2013 revision of these rules, qualification will be determined in accordance with prior policy and practice.

3. Residential developments, (including but not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums, town houses, etc.), churches, and businesses with gaming on site (see LAC 13:I.Chapter 3, Gaming Ineligibility) are not eligible for enterprise zone benefits.

4. For a multi-tenant facility to be eligible for the benefits of this Chapter, the business must meet one of the following criteria:

a. occupy a minimum of 33 percent of the total floor area of the building;

b. tenants are businesses new to the state;

c. tenants are Louisiana businesses increasing their number of locations within the state by placing a new location within this facility;

d. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location.

5. Limitation on Retail Establishments

a. Retail establishments that are assigned a North American Industry Classification Code beginning with 44 or 45 and have more than 100 employees nationwide including affiliates prior to the contract effective date are not eligible to participate unless:

i. the business is a grocery store or pharmacy as defined by LED; and

ii. the business is located in an enterprise zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2298 (November 2003), LR 37:2368 (August 2011), LR 40:

§703. Definitions

Affiliate—

1. any business entity that is:

a. controlled by the business;

b. a controlling owner of the business;

c. controlled by an entity described in Subparagraph a or b; or

d. another franchisee of the same franchisor,

2. *control*, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:

a. a majority of the voting stock or other voting interest of such business entity or the business; or

b. stock or other interest whose value is a majority of the total value of such business entity or the business.

3. A controlled or controlling business entity will be deemed a "non-affiliate" (not an *affiliate*) if LED determines that neither the business nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

4. A controlled or controlling business entity will be deemed an 'unrelated affiliate" (not an *affiliate*) if LED determines that the business entity is not engaged in any line of business related to the project activities.

Beginning of the Project—

1. the first day on which project foundations are started or where foundations are unnecessary, the first day on which installation of the project facility begins or the first day that materials or equipment purchased for the project are received;

2. where there is no construction, installation, or purchase of materials or equipment, the first day on which a new hire is made in connection with the project; or

3. the beginning date reported on the application (which date must be on or after the date the advance notification was filed).

Board—the Board of Commerce and Industry.

Business—a legal entity applying for the Enterprise Zone Program that conducts any activity carried on for the production of income from selling goods or performing services. A business may be conducted in the form of either a for-profit or not-for-profit entity. A not-for-profit entity will be considered a business only if it provides goods or services for a fee based upon the cost of providing those goods or services (for example, hospitals).

Business Incentives Services—the Business Incentive Services Division of the Office of Business Development of the department.

Contract Effective Date—the day that the advance notification and fee were received by Business Incentives Services or the beginning of the project shown on the application. The contract effective date cannot be earlier than the date the advance notification was received by Business Incentive Services unless a waiver of timely filing has been approved by the board.

Department—Louisiana Department of Economic Development.

Department of Revenue—Louisiana Department of Revenue.

Domicile—the place of a person's principal establishment or habitual residence. A change of domicile may be shown by positive and satisfactory proof of establishment of domicile as a matter of fact with the intention of remaining in the new place and of abandoning the former domicile. Such proof may include a sworn declaration of intent recorded in the parish to which a person intends to move, voter registration, or similar evidence of such intent.

Economic Development Zone—

1. a contiguous geographic area with a visible boundary, owned or operated by a political subdivision or an entity created by a political subdivision for commercial or industrial development purposes, including but not limited to the following:

a. industrial park;

b. business park;

c. airport or air park;

d. research park;

e. research and development park;

f. downtown development district with taxing and bonding authority;

g. former federal facility (immediately prior owner and occupant must have been a federal governmental entity), excluding a single building or small grouping of buildings; or

h. port.

2. An *Economic Development Zone* must be designated as such by the political subdivision in which it is located, and approved by the board. The location of an Economic Development Zone once defined is permanent, and cannot be moved or relocated.

Employment Baseline—

1. the baseline from which net new jobs are determined, equal to:

a. the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the 12 months prior to the contract effective date) at the project site, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months); or

b. the last annual average number of full time employees certified under an enterprise zone contract for the business that was in effect on the day prior to the contract effective date.

2. The baseline must be maintained in any year for which the business requests job tax credits.

3. For projects with advance notifications filed with Business Incentives Services prior to the effective date of the 2013 revision of these rules, employment baseline will be determined in accordance with prior policy and practice.

Enterprise Zone—a census block group which is economically distressed and in need of expansion of business and industry and the creation of jobs, and

designated by the board to be eligible for the benefits of this Chapter in accordance with R.S. 51:1784.

Full Time Employee—an employee who is reported on the business's quarterly report and is scheduled to work 35 hours per week.

Grocery Store—a business that primarily engages in activities that qualify for one of the following NAICS codes: 445110, 445210, 445220, 445230, 445291, and 452910.

Headquarters—the corporate domicile of the company, together with all executive and administrative jobs normally constituting a corporate headquarters, or the regional headquarters support services of the company, together with all executive and administrative jobs normally constituting a regional corporate headquarters.

Hire Date—the first day of work for which the business directly pays an employee.

Lacking Basic Skills—an employee who exhibits below a ninth grade level proficiency in reading or writing or math.

Louisiana Workforce Commission—formerly known as the Louisiana Department of Labor.

NAICS—North American Industrial Classification System.

Net New Job—

1. a position of employment that is:

a. created on or after the contract effective date;

b. in addition to the number of jobs in the employment baseline;

c. based at the site of the enterprise zone project;

d. filled by a full time employee; who is

e. a United States citizen domiciled in Louisiana, or who becomes domiciled in Louisiana within 60 days after hire date; and who is

f. reported on the business's quarterly report.

2. The number of net new jobs filled by full time employees shall be determined by averaging the monthly totals of full time employees over a minimum of seven months for the first and last year of the contract period, and over a 12 month period for all other years.

3. For purposes of determining qualification of the business for the Enterprise Zone Program under §701.E, net new jobs shall be limited to permanent full-time jobs that are in addition to the number of permanent full-time jobs included in the employment baseline.

4. Jobs in which employees perform essentially the same work at the same location both before and after the contract effective date are not net new jobs unless:

a. there has been an arm's length transfer of ownership between unrelated companies (not affiliates); and

b. either the location has been out of operation for at least three months, or the secretary determines that the jobs would have likely been lost to the state absent the transfer.

5.a. Transferred jobs which are not net new jobs include:

i. jobs transferred, or jobs associated with work or sales transferred to the project site from other Louisiana sites of the business (including affiliates), unless back-filled at the original site;

ii. jobs transferred, or jobs associated with work or sales transferred, to the business from affiliates and unrelated affiliates on the project site, unless back-filled;

iii. jobs transferred, or jobs associated with work or sales transferred, to the project site from other Louisiana sites as a result of the business (including affiliates) acquiring a business operation, or substantially all of its assets, and continuing the business operation;

b. jobs created for the project, but temporarily assigned to another site until the site is ready or for training or similar purposes, are not considered transferred jobs and may be considered net new jobs when re-assigned to the project site.

6. Lost jobs which must be deducted in determining net new jobs include:

a. jobs lost due to closure of any site of the business (including affiliates) that:

i. is located within the same parish; and

ii. provides the same goods or services as the project site;

b. jobs lost due to downsizing of any site of the business (including affiliates) that:

i. is located within the same parish; and

ii. provides the same goods or services as the project site;

iii. the project site and the other site each sell their goods or services primarily into that parish; and

iv. the downsizing was anticipated by the business at the time the Qualification Certification was filed;

c. jobs lost due to closure or downsizing of any site of the business (including affiliates) that:

i. is located in the state of Louisiana; and

ii. provides the same goods or services;

iii. primarily for the same market segment or customer base, as the project site; and

iv. the closure or downsizing was anticipated by the business at the time the Qualification Certification was filed;

d. jobs lost by the business (including affiliates) due to relocation outside Louisiana or downsizing of headquarters operations or headquarters support services of the business (including any intermediate or ultimate parent company), and the relocation or downsizing was anticipated by the business at the time the Qualification Certification was filed.

Permanent Job—as established in the qualification certification (as of the time the qualification certification is filed and irrespective of subsequent modifications to the job), a job that has no anticipated end date falling within the period commencing 45 days prior to the contract effective date and ending five years after the contract effective date.

Pharmacy—any business located within Louisiana where drugs are dispensed and pharmacy primary care is provided and where the place has obtained a permit per La. R.S. 37:1221 prior to the commencement of operation.

Placed in Service—the date indicated as *placed in service* on the business's federal tax return depreciation schedule.

Political Subdivision—in this Chapter, a state, parish, municipality or other political subdivisions, including and not limited to a law enforcement or other special district authorized by law to perform governmental functions.

Project—a construction, expansion, or other business venture and associated activities for which benefits are sought under the Enterprise Zone Program.

Project Completion Report—a report confirming the beginning of the project, the project ending date, and the benefits elected.

Project Ending Date—the date all construction and purchasing is completed and received for the project, completing the project.

Project Period—the time encompassed by the contract effective date and the project ending date.

Project Site—the contiguous physical location of a project.

Public Assistance—any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependent upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six-month period prior to their hire date. Unemployment benefits are not public assistance.

Qualified Expenditure—amounts classified as capital expenditures for federal income tax purposes plus exclusions from capitalization provided for in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized cost of land, capitalized leases of land, capitalized interest, capitalized costs of manufacturing machinery and equipment to the extent the capitalized manufacturing machinery and equipment costs are excluded from sales and use tax pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing building. When a taxpayer purchases an existing building and capital expenditures are used to rehabilitate the building, the costs of the rehabilitation only shall be considered qualified expenditures. Additionally, a taxpayer shall be allowed to increase their qualified expenditures to the extent a taxpayer's capitalized basis is properly reduced by claiming a federal credit.

Quarterly Report—the Quarterly Report of Wages Paid that a business files with the Louisiana Workforce Commission.

Rural Enterprise Zone—an enterprise zone located in a parish having a current U.S. Census population of 75,000 or less.

State—state of Louisiana.

Unemployable by Traditional Standards—having no prior work history or job training, having a criminal record (excluding misdemeanors), having a history of being unable to retain employment after gaining it, or being physically challenged.

Urban Enterprise Zone—an enterprise zone located in a parish having a current U.S. Census population greater than 75,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2299 (November 2003), amended LR 37:2369 (August 2011), LR 40:

§707. Items Eligible for Sales and Use Tax Rebate [Formerly §721]

A. Materials that are permanently installed at the project site during the project period are eligible for sales and use tax rebates.

B. Materials that originate from a contractor or subcontractor's inventory and are permanently installed at the project site during the project period are eligible for sales and use tax rebates. In order for rebates to be issued on property withdrawn from inventory, the contractor or subcontractor must maintain sufficient records and provide sufficient information to enable the Department of Revenue to verify that Louisiana sales or use taxes were paid on the property for which rebate is claimed.

C. Machinery and equipment purchased for the project during the project period are eligible for sales and use tax rebates provided that the machinery and equipment are used exclusively at the project site, are owned by an entity named in the enterprise zone contract, and are intended to remain at the project site for the expected useful life of the machinery and equipment.

D. Machinery and equipment transferred into Louisiana for the project during the project period are eligible for sales and use tax rebates provided that the machinery and equipment are used exclusively at the project site, are owned by an entity named in the enterprise zone contract, and are intended to remain at the project site for the expected useful life of the machinery and equipment.

E. Software purchased, capitalized, and used by the business primarily at the project site during the project period is eligible for sales and use tax rebates.

F. Consumable items are not eligible for sales and use tax rebate. Ineligible items include but are not limited to: per diem, labor, service contracts, storage, freight, radios, laptop computers, utilities, permits and fees, office supplies, construction consumables, blades, drill bits, PVC sheeting, tape, gloves, dusk masks, and all leases and rentals.

G. Lease-purchases may be eligible for a sales and use tax rebate upon Department of Revenue's approval. The property acquired through lease-purchase must be used exclusively at the project site, must be owned by an entity named in the enterprise zone contract, and must be intended to remain at the project site for the expected useful life of the machinery and equipment. A copy of the lease-purchase agreement must be submitted with the claim for rebate request to Department of Revenue, Office Audit Division.

H. A lease of an improvement to immovable property may be eligible for sales and use tax rebate upon the following conditions:

1. the improvements were made with the specific intent to enter into a lease agreement for the use of the improvements by the business, that is, an agreement to lease the improvements must exist before construction begins;

2. at its inception the lease must meet one or more of the following four criteria:

a. the lease transfers ownership of the property to the lessee by the end of the lease term;

b. the lease contains a bargain purchase option;

c. the lease term must be a minimum of twenty years;

d. the present value of the minimum lease payments, excluding any portion of the payments representing costs such as insurance, maintenance, and taxes to be paid by the lessor, equals or exceeds 90 percent of the fair value of the leased property; and

3. rebates shall be paid to the lessee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, LR 9:230 (May 1982), amended LR 9:544 (August 1983), LR 11:96 (February 1985), amended by the Department of Economic Development, Office of Business Development, LR 17:255, (March 1991), LR 22:449 (June 1996), LR 29:2302 (November 2003), LR 37:2372 (August 2011), LR 40:

§709. Targeted Employees for a Business in an Urban Enterprise Zone

A. A business located in an urban enterprise zone and receiving the benefits of this Chapter must certify that at least 50 percent of the employees filling net new jobs meet one of the following requirements:

1. resident in an enterprise zone in the state;
2. receiving public assistance during the six-month period prior to their hire date;
3. lacking basic skills; or
4. unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003), LR 37:2372 (August 2011), LR 40:

§711. Targeted Employees for a Business in a Rural Enterprise Zone

A. A business located in a rural enterprise zone and receiving the benefits of this Chapter must certify that at least 50 percent of the employees filling net new jobs meet one of the following requirements:

1. resident of the same parish as the project site;
2. resident of an enterprise zone in the state;
3. receiving public assistance during the six month period prior to their hire date;
4. lacking basic skills; or
5. unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), LR 37:2372 (August 2011), LR 40:

§713. Targeted Employees for a Business in an Economic Development Zone

A. A business located in an economic development zone and receiving the benefits of this Chapter must certify that at least 50 percent of the employees filling net new jobs meet one of the following requirements:

1. resident of the same parish as the project site;
2. resident of an enterprise zone in the state;
3. receiving public assistance during the six month period prior to their hire date;
4. lacking basic skills; or
5. unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:

§715. Targeted Employees for a Business Not in an Enterprise Zone or Economic Development Zone

A. A business not located in an enterprise zone or economic development zone and receiving the benefits of this Chapter must certify that at least 50 percent of the employees filling net new jobs meet one of the following requirements:

1. resident of an enterprise zone in the state;
2. receiving public assistance during the six month period prior to their hire date;
3. lacking basic skills; or
4. unemployable by traditional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:

§717. Annual Employee Certification

A. An annual employee certification report (ECR) must be filed with the Business Incentive Services by May 31 on all active contracts validating compliance with §§709, 711, 713, and 715. Failure to file may result in contract cancellation. One 30-day extension may be granted if requested in writing.

B. If the employee certification report substantiates that the business has not created the permanent full-time net new jobs required for qualification under §701.E.1, the board shall cancel the contract and the business shall refund all credits and rebates received. If not timely paid in compliance with the contract, the department will notify Department of Revenue of the contract violation, and the business will be subject to the provisions of §737.

C. For projects with advance notifications filed with Business Incentives Services prior to the effective date of the 2013 revision of these rules, the annual employee certification process will be performed in accordance with prior policy and practice.

D. A business may request that its contract be terminated and that it no longer be required to file an ECR if:

1. the contract has been in effect for at least 30 months; and
2. the business has met all of the requirements of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:

§719. Arbitrary Termination of Employees

A. The board shall not accept an application from an applicant which performs essentially the same job at the same or new location but for a different ownership in order to qualify for the benefits of this Chapter. New jobs tax credits shall not be generated by those persons whether or not the name or owner of the business changes over a short period of time (less than two weeks), i.e., a business closes on Friday under one ownership and opens on Monday under

a different ownership. These are not net new jobs and shall not generate jobs tax credits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003), amended LR 40:

§721. Advance Notification

A. An Advance Notification form, and the required fee, shall be filed with Business Incentive Services prior to the beginning of the project. All incentives for the same project must be indicated on one advance notification and be identified by one project number. It is not acceptable to apply for Enterprise Zone Program and use the same project in a miscellaneous capital addition application for the Industrial Tax Exemption Program. Internet filing of the advance notification may be made at the department website.

B. An advance notification expires one year after the estimated project ending date shown on the advance notification, unless an application is timely filed, or a written date revision request is received by Business Incentive Services prior to the expiration date.

C. An advance notification filed after the beginning of the project requires a waiver of late filing from the board, based upon events beyond the control of the business caused the late filing or documented fault or error on the part of the business incentive services that caused the business's late filing. Lack of knowledge of the existence of the Enterprise Zone Program or its benefits or procedures will not be accepted as a valid reason for waiving the timely filing requirement. A waiver of late filing will allow the business to proceed as if the advance notification was filed timely.

D. A business proposing a project exceeding 30 months must separate the project into phases with no phase having a project period greater than 30 months. The business must comply with §701.E. qualifications, and file a separate advance notification, application, project completion report, and affidavit of final cost, with the required fees, for each phase of the project. The business must elect either the sales and use tax rebate or the investment tax credit for all phases of the project. Businesses electing the investment tax credit are not subject to the 50 percent limitation of §731.B for phases subsequent to the initial phase, and may elect to file one investment tax credit claim for all consecutive project periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:

§723. Application

A. An application for an enterprise zone contract, and the required fee, must be filed with Business Incentives Services, on the form prescribed, within three months after the project ending date. Internet filing of the application may be made at the department's website. Upon request, the business shall receive a thirty day extension of time in which to file its application, provided such request for extension is received by Business Incentives Services no later than the filing deadline date.

B. With or after the filing of the advance notification, but no later than with the filing of the application, the business shall file with Business Incentives Services, on the form prescribed, a qualification certification of the intended number of permanent full-time net new jobs for purposes of determining eligibility for the Enterprise Zone Program.

C. An application fee equal to 0.2 percent (0.002) of the total estimated tax relief shall be submitted with each application. Total estimated tax relief includes jobs tax credits, state sales and use tax rebates and investment tax credits. Jobs tax credits are calculated by multiplying the total new jobs estimated to be created within the five-year contract period by $2,500 ($5,000 for rubber, aerospace or auto parts manufacturers). An additional application fee will be due if a project's employment or investment is increased from that stated in the application, resulting in a minimum fee of $100 more than previously paid. The minimum fee is $200 and the maximum fee is $5,000 per application. All fees shall be made payable to: Louisiana Department of Economic Development.

D. An application must be submitted to Business Incentive Services at least 45 days prior to the board meeting where it is intended to be presented for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:

§725. Recommendations of the Secretaries of Economic Development and Revenue

A. Business Incentive Services shall forward the application with its recommendation to the secretary of the Louisiana Department of Revenue and the secretary of the Louisiana Department of Economic Development for their review and recommendations. The secretaries of the Department of Revenue and the department may submit a letter of no objection in lieu of a letter of recommendation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2374 (August 2011), LR 40:

§727. Application Review by the Board of Commerce and Industry

A. Business Incentive Services shall present an agenda of applications to the board with recommendations based upon its findings.

B. Each business or its representative will be notified of the board meeting date at which its application will be considered. The business should have someone present who is able to answer any questions the board may have regarding the information contained in the application. In the event there is no representative present, the application may be deferred or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2374 (August 2011), LR 40:

§729. Enterprise Zone Program Contract

A. Upon approval of the application, the board shall enter into a contract with the business for the benefits allowed by this Chapter. The business must execute its

portion of the contract and return it to Business Incentive Services within 60 days. If the contract is not returned within 60 days, the board may rescind the approval of the application. When the contract has been fully executed, an original contract will be returned to the business. An original will be sent to the Department of Revenue and, if applicable, a copy sent to the political subdivision.

B. Business Incentive Services must be notified, on the prescribed form, of any change that will affect the contract. This includes, but is not limited to, changes in the ownership or operational name of the business holding a contract, or the suspension, closing, or abandonment of operations. Failure to report any changes within six months may constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:

§731. Project Completion

A. Within six months after the project ending date or the governor's signature on the contract, whichever is later, the business shall file with Business Incentive Services, on the prescribed form, a project completion report and an affidavit of final cost, with the required inspection and audit fee.

B. The project completion report shall confirm the beginning of the project, the project ending date, and the incentive benefits elected. Local sales and use tax rebate is not available if the investment tax credit is elected. Except as provided in §721.D, the investment tax credit may not be elected if more than 50 percent of the qualified expenditures related to the project (including intangible costs such as architectural and/or engineering fees prior to construction) are incurred before the filing of the advance notification.

C. The affidavit of final cost shall list all eligible purchases and qualified expenditures for the project, with a description of the buildings, equipment, or other assets, and the cost of each item.

D. After completion of the project and the governor's signature of the contract, the department shall sign the project completion report and forward copies to the business, the Department of Revenue, and any political subdivision rebating local sales and use tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:

§732. Investment Tax Credit Claims

A. The investment tax credit is earned in the year in which the project is placed in service, and is based upon all qualified capitalized expenditures related to the project as of the date it is placed in service, regardless of whether the actual time period involved exceeds 30 months.

B The investment tax credit claim must be filed with the Department of Revenue, Office Audit Division, with the required documentation.

C. The investment tax credit may be taken on qualified expenditures that are related to the project and are placed in service during the project period. The investment tax credit applies to the assets that are related to the qualified expenditures, provided that the business reasonably intends for such assets to remain at the project site for their expected useful life. The assets may be recorded on the financial statements of a company that is an affiliate of the business.

D. The claim for investment tax credit must be filed with the Department of Revenue no later than six months after the governor's signature of the contract and the department's signature of the project completion report, and must be accompanied by the signed Project Completion Report. Upon request, the business shall receive a 30 day extension of time in which to file its claim, provided such request for extension is received by the Department of Revenue prior to the expiration of such filing period. The Department of Revenue is also authorized to grant the business an additional extension of time, not to exceed 60 days, in which to file its claim provided that the business shows reasonable cause for granting such extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:

§733. Sales and Use Tax Rebate Requests

A. The Enterprise Zone Program contract will not authorize the business to make tax exempt purchases from vendors. The Department of Revenue will advise the business on the proper procedures to obtain the state sales and use tax rebate. The request for rebate of sales and use taxes must be made by filing a claim with the Department of Revenue, Office Audit Division, and must include the following:

1. list of eligible purchases, including a brief description of each item, the vendor's name, date of the delivery, sales price and the amount of state sales and use tax paid. The listed items must have been purchased by the business, or by a builder, a contractor, or other party that contracted with the owner to provide materials, equipment, machinery, or software that is used by the business at the project site or is listed in the Enterprise Zone Program contract;

2. certification that the listed materials are reasonably expected to qualify for a rebate under the Enterprise Zone Program; and

3. certification that state sales and use taxes have been paid on the listed items.

B. The request may be filed on the official Department of Revenue "claim for rebate" form or on other forms prepared by the business. After the Department of Revenue has validated the information on the claim for rebate, a rebate check will be issued for the amount of substantiated state sales and use taxes paid.

C. The request for rebate must be filed with the Louisiana Department of Revenue, and the political subdivision rebating local sales and use tax, no later than six months after the Department of Economic Development signs a project completion report and sends it to the Department of Revenue, the political subdivision, and the business, or no later than 30 days after the end of the calendar year in the case of customer-owned tooling used in a compression molding process and must be accompanied by the signed project completion report. Upon request, the business shall receive a 30-day extension of time in which to file its claim, provided such request for extension is received by the Department of Revenue prior to the expiration of such filing period. The Department of Revenue is also authorized

to grant the business an additional extension of time, not to exceed 60 days, in which to file its claim, provided that the business shows reasonable cause for granting such extension.

D. The business should contact the political subdivision issuing the endorsement resolution to determine the procedure for local sales and use tax rebate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2375 (August 2011), LR 40:

§735. Business with a Contract Must File State Income and Franchise Tax Returns

A. Businesses that have satisfied their Louisiana income tax and/or franchise tax liability by applying jobs tax credits earned under this Chapter shall file the same forms and tax returns with the Department of Revenue that are required if no jobs tax credit were claimed. Each annual return on which jobs tax credits are taken must have a copy of the letter from Business Incentive Services certifying the jobs tax credits earned. If total jobs tax credits are less than the total taxes, remittance in the amount of the difference must be enclosed with the tax return. Limited Liability Companies, Sub Chapter S Corporations, etc., must have the name(s) of owners and their Social Security numbers or Department of Revenue number for corporations listed on the contract in order for jobs tax credits to flow through to the owner(s).

B. Partnerships and sole proprietorships shall file the same returns that are required if the jobs tax credits were claimed. Each annual return on which jobs tax credits are taken must have a copy of the letter from Business Incentives Services certifying the tax credits earned. If total jobs tax credits are less than the total taxes, remittance in the amount of the difference must be enclosed with the tax return.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 37:2375 (August 2011), LR 40:

§737. Violation; Cancellation of Contract

A. On the initiative of the board upon notice or a written complaint of violation of the terms of the statutes, rules or the contract, the board or its representative shall determine if a full investigation should be made. The board shall have full authority for such investigation, including but not exclusively, the authority to call for reports, pertinent records, or other information from the business. If the investigation appears to substantiate a violation the board or its representative will present the subject contract for formal action.

B. If a business is found to be in violation of the statutes, these rules or the contract, board may cancel the contract and the business shall remit back to the state all jobs tax credits taken on income tax and franchise returns, all state and local sales and use tax rebates, Investment Tax Credit, and any other taxes that would have been imposed but for the issuance of this contract.

C. The department shall notify the Department of Revenue of the cancellation, and the Department of Revenue will proceed by all appropriate means to recapture all benefits received pursuant to this Chapter, including any penalty and interest due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 37:2375 (August 2011), LR 40:

§739. Fees

A. Advance notifications, applications, and Affidavits of Final Cost are not considered filed without payment of the proper fee, and Business Incentives Services may return the filing to the business if the estimated tax relief or the fee submitted is incorrect. An application or Affidavit of Final Cost may be resubmitted within 30 days with the correct fee without penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37: 2376 (August 2011), amended LR 40:

§741. Multi-Tenant Facility

A. For a multi-tenant facility to be eligible for the benefits of this Chapter, the applicant must meet one of the following:

1. occupy a minimum of 33 percent of the total floor area of the building;
2. tenants are businesses new to the state;
3. tenants are Louisiana businesses increasing their number of locations within the state by placing a new location within this facility;
4. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location per §701.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 40:

§743. Relocation of Enterprise Zones

A. A municipality or parish requesting the relocation of an Enterprise Zone must provide valid reason for requesting the move and must have the approval of the board.

B. The residents of originally designated Enterprise Zone may qualify as part of the 35 percent residency requirement.

C. The effective date of a relocation approved by the Board shall be the date of passage affixed to the resolution by the local governing authority requesting the relocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 37:2376 (August 2011), LR 40:

§745. Appeals

A. A business may appeal an action of the board by submitting its appeal along with any necessary documentation to Business Incentives Services no later than 90 days after the board action. The appeal shall not be considered by the board less than 30 days after submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 37:2376 (August 2011), LR 40:

§749. Prohibit Local Fees and Prohibit Local Conflicting Employment Practices

A. No political subdivision shall charge any fees or require any employment practices which conflict with state law as a precondition to authorize tax benefits under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:257 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:451 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2305 (November 2003), LR 37:2376 (August 2011), LR 40:

§751. Effective date of Act 423 of the 2013 Regular Session

A. The provisions of Act 423 shall apply to all Enterprise Zone contracts for which advance notification was filed on or after June 21, 2013.

B. For purposes of the sales and use tax rebate or the investment tax credit under the Quality Jobs program, the provisions of Act 423 shall apply to all Quality Jobs contracts for which advance notification was filed on or after June 21, 2013 and for all renewals of Quality Jobs contracts entered into on or after June 21, 2013.

C. For purposes of the sales and use tax rebate or the project facility expense rebate under the Competitive Projects Payroll Incentive, the provisions of Act 423 shall apply to all new and renewal contracts entered into on or after June 21, 2013.

AUTHORITY NOTE: Promulgated in accordance with Act 423 of the 2013 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to Danielle Clapinski, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by fax to (225) 342-9448, or by email to danielle.clapinski@la.gov. All comments must be received no later than 5 p.m., on January 26, 2014.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on January 27, 2014 at 10 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Enterprise Zone Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of these Rules. The Department of Economic Development intends to administer the program with existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 423 of the 2013 legislative session contained multiple changes to the qualifications for the Enterprise Zone program. The net effect of the bill is an expected increase to State General Fund collections (via fewer credits and/or rebates). According to LED and LDR, this program has provided about $380 M in total benefits to firms over the last 5 years. In FY 12, about $45 M in benefits were approved with about $67 M claimed (prior year carry-forwards contribute to the difference). The bill could materially reduce the costs generated by the program in the future, though precise estimates are not possible. Prospective application (even with applicability to renewals and advance notifications) results in program cost savings being smaller in the initial periods and accumulating over time as participation under this bill's program parameters occurs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Companies that would no longer be eligible for the program will forego benefits they might have otherwise received.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies that would no longer be eligible for program benefits will be placed in a competitively comparable position with other companies. Potentially less employment in those companies will likely be offset by potentially more employment in companies facing less competition from companies receiving benefits from the state.

Anne G. Villa	Gregory V. Albrecht
Undersecretary	Chief Economist
1312#043	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 304, 703, 907, 1103, 1307, 1503, 2503 and 3101)

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, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2014 (2015 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of these proposed Rules will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of these proposed Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed Rules will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed Rules will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed Rules will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of these proposed Rules will have no effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 9, 2014, at the following address: Charles Abels, Tax Commission Administrator, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

James D. "Pete" Peters
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated state costs or savings associated with the proposed rules. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

On average, these revisions will generally increase certain 2014 real and personal property assessments for property of similar age and condition in comparison with the latest available equivalent assessments. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal property will increase by an estimated 1.5%. Specific valuation tables for assessment of pipelines will increase by an estimated 9% (onshore 5% and offshore 13.5%). Oil & gas wells will increase by an estimated 4% in all regions. Drilling rigs will decrease by an estimated 1.5% on average (Land rigs +.5%, jack-ups +3%, semisubmwesible rigs +3% and well service land only rigs -13%). The net effect determined by averaging these revisions is estimated to increase assessments by .05% and estimated local tax collections by $422,000 in FY 14/15 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution. Additionally, the proposed rule addresses the Constitutional Amendment that was approved in October, 2011, allowing for a doubling of the homestead exemption for certain disabled veterans as stated in the amendment. To the extent that the exemption is approved by parishes and claimed, local revenue will decline.

There is no impact to state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 2014 compared to the last year of actual data. Specific assessments will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, the impact is expected to be minimal.

James D. "Pete" Peters	Gregory V. Albrecht
Chairman	Chief Economist
1312#023	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Behavior Analyst Board

Application Procedures and Board Fees
(LAC 46:VIII.Chapter 3)

Act 351 of the 2013 Legislative Session created the Louisiana Behavior Analyst Board. Act 351 mandates licensure of behavior analysts, state certification of assistant behavior analysts and registration of line technicians performing applied behavior analysis services in Louisiana. In accordance with R.S.49:95 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Behavior Analyst Board is creating a new Rule, LAC 46:VIII.Chapter 3, Application Procedures and Board Fees. This proposed Rule provides a procedure to collect applications for the licensure of behavior analysts,

certification of assistant behavior analysts and registration of line technicians. This Rule also requires licensing and administrative fees for regulation under the Behavior Analyst Board.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part VIII. Behavior Analysts
Chapter 3. Application Procedures and Board Fees

§301. Application Procedures for Licensure/State Certification/ Registration

A. Application and/or Registration

1. An application for a license as a behavior analyst, state certified assistant behavior analyst or registration as a line technician may be submitted after the requirements in R.S. 37:3706-37:3708 are met.

2. Upon submission of application or registration on the forms provided by the board, accompanied by such fee determined by the board, the applicant must attest and acknowledge that the:

a. information provided to the board is true, correct and complete to the best of his knowledge and belief; and

b. the board reserves the right to deny an application in accordance with R.S. 37:3706-37:3708, if the application or any application materials submitted for consideration contain misrepresentations or falsifications.

3. An applicant, who is denied licensure based on the information submitted to the board, may reapply to the board after one year, and having completed additional training, if necessary and having met the requirements of law as defined in the rules and regulations adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Behavior Analysts, LR 40:

§302. Licensure of Behavior Analysts

A. The applicant for licensure as a behavior analyst shall:

1. submit notarized application along with appropriate fee pursuant to §305;

2. provide proof of a masters degree by requesting official transcripts from accredited university;

3. submit verification of successful passage of a national exam administered by a nonprofit organization accredited by the National Commission for Certifying Agencies and the National Standards Institute to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board;

4. take and successfully pass the Louisiana jurisprudence exam issued by the board;

5. complete a criminal background check as approved by the board; and

6. provide proof of good moral character as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Behavior Analysts, LR 40:

§303. Certification of State Certified Assistant Behavior Analysts

A. The applicant for certification as a state certified assistant behavior analyst should:

1. submit notarized application along with appropriate fee pursuant to §305;

2. provide proof of a bachelors degree by requesting official transcripts from accredited university;

3. submit verification of successful passage of a national exam administered by a nonprofit organization accredited by the National Commission for Certifying Agencies and the National Standards Institute to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board;

4. take and successfully pass the Louisiana jurisprudence exam issued by the board;

5. complete a criminal background check approved by the board;

6. provide proof of good moral character as approved by the board; and

7. provide proof of supervision by a Louisiana licensed behavior analyst on the form required by the board. If there is more than one supervisor, a form must be submitted for each supervisor.

B. If the supervision relationship between a Louisiana-licensed behavior analyst and state certified assistant behavior analyst ends, both parties are responsible for notifying the board in writing, within 10 calendar days of the termination of the arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3707.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Behavior Analysts, LR 40:

§304. Registration of Line Technicians

A. A Louisiana-licensed behavior analyst must register with the board all line technicians functioning under their authority and direction. It is the responsibility of both the licensed behavior analyst and line technician to submit registration paperwork for each supervisory relationship. The registration must be completed on the form provided by the board along with payment of the appropriate fee pursuant to §305.

B. A line technician must complete a criminal background check approved by the board.

C. If the supervision relationship between a Louisiana licensed behavior analyst and line technician ends, both parties are responsible for notifying the board in writing within 10 calendar days of the termination of the arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Behavior Analysts, LR 40:

§305. Licensing and Administrative Fees

A. Licensing Fees

Application for Licensed Behavior Analyst	$400
Application for State Certified Assistant Behavior Analyst	$250
Registration for Line Technicians	$ 50
Temporary Licensure	$125
Annual Renewal—Behavior Analyst	$400
Annual Renewal—Assistant Behavior Analyst	$250
Annual Renewal—Line Technicians	$ 50
Jurisprudence Examination	$ 75
Criminal Background Check	$ 50

B. Administrative Fees

Late Fees	$50
Duplicate Copy of License	$15
Official Name Change on License	$25
License Verification	$15
Insufficient Check Fee	$15
Copies of Documents	$2/page

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Behavior Analysts, LR 40:

Family Impact Statement

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule and adoption of the Rule related to application procedures and fees is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule creates a new Rule, LAC 46:VIII. Chapter 3. The Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Public Comments

Interested persons may submit written comments to Kelly Parker, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on January 9, 2014.

Kelly Parker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Application Procedures and Board Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule codifies and establishes requirements enacted by Act 351 of the 2013 Legislative Session, effective August 1, 2013. Act 351 created the Louisiana Behavior Analyst Board and allowed for the establishment of licensure, certification, registration, continuing education and practice requirements of behavior analysts, certified assistant behavior analysts and line technicians. The estimated implementation cost for this rule totals approximately $275 in FY 14. Those costs are related to publishing the proposed and final Rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed Rule creates application procedures of licensed behavior analysts and codifies fees for licensed behavior analysts, state certified assistant behavior analysts and registration of line technicians as established in Act 351. The fee schedule for licensure, renewal, examination, and administrative fees is projected to generate revenues of approximately $25,125 SGR annually based on the current practicing population of 40 licensed behavior analysts, 5 assistant behavior analysts and 100 line technicians.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This new Rule will provide procedures for qualified individuals to become licensed, certified or registered. It also requires qualified candidates to be subject to the appropriate fees found in Section 305 of the new Rule. Individuals practicing in the behavioral analysis field will realize additional costs associated with licensure, certification or registration, continuing education, criminal background checks and various administrative fees. Licensure and certification may provide economic benefits to individuals practicing in the field of behavioral analysis to the degree that such licensure bolsters public confidence in the area of practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Individuals and businesses performing behavioral analysis services will require licensure, certification or registration pursuant to Act 351 of the 2013 Legislative Session. Individuals failing to acquire proper licensure may be unable to work in the field of behavioral analysis. The impact on competition and employment statewide is unknown.

Kelly Parker
Executive Director
1312#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Abortion Facilities
Licensing Standards
(LAC 48:I.Chapter 44)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 44 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. 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 amended the provisions governing the licensing of abortion facilities in order to clarify the licensing requirements and staffing provisions (*Louisiana Register*, Volume 39, Number 8).

Acts 259 and 260 of the 2013 Regular Session of the Louisiana Legislature amended the laws governing abortion services and the *Louisiana Children's Code*. The department promulgated an Emergency Rule which repealed and

replaced the licensing standards governing outpatient abortion facilities in order to revise and clarify these provisions, and to comply with the provisions of Acts 259 and 260 (*Louisiana Register*, Volume 39, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2013 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

Subchapter A. General Provisions

§4401. Definitions

Abortion—any surgical procedure performed, after pregnancy has been medically verified, with the intent to cause the termination of the pregnancy other than for the purpose of:

1. producing a live birth;
2. removing an ectopic pregnancy; or
3. removing a dead fetus caused by a spontaneous abortion.

Administrator—the person responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility.

Change of Ownership (CHOW)—transfer of ownership to someone other than the owner listed on the initial licensing application or license renewal application.

CRNA—a certified registered nurse anesthetist licensed by the Louisiana State Board of Nursing who is under the supervision of the physician performing the abortion or an anesthesiologist who is immediately available if needed as defined in the medical staff bylaws and in accordance with applicable licensing boards.

Department—the Department of Health and Hospitals, (DHH).

First Trimester—the time period from 6-14 weeks after the first day of the last menstrual period.

General Anesthesia—any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command.

Gestational Age—the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound.

HSS—the Department of Health and Hospitals, Health Standards Section.

Medical Director—a physician who is responsible for all of the medical care provided to patients in the outpatient abortion facility, and for the ethical and professional practices of the medical staff.

OSFM—the Department of Public Safety and Corrections, Office of State Fire Marshal, Public Safety Services.

OPH—the Department of Health and Hospitals, Office of Public Health.

Outpatient Abortion Facility—any outpatient facility or clinic, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions are performed per month.

Patient—the woman receiving services from an outpatient abortion facility.

Physician—a doctor who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose license does not restrict the doctor from performing the services at the outpatient abortion facility.

Products of Conception—placenta, amniotic sac or membrane, embryo, or fetal elements that result from a human pregnancy.

Second Trimester—the time period from 14-23 weeks after the first day of the last menstrual period.

Secretary—the secretary of the Louisiana Department of Health and Hospitals.

Serious Harm—an incident which involves:

1. unconsciousness;
2. physical pain evidenced by objective findings;
3. disfigurement;
4. loss or impairment of the function of a body member, organ, or mental faculty; or
5. severe emotional distress.

Telecommunications—any means of transmitting messages at a distance, including but not limited to:

1. telephones;
2. cell phones;
3. pagers; or
4. other similar devices which foster communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4403. General Licensing Provisions

A. It shall be unlawful for outpatient abortion facilities in the initial licensing application process to accept patients or provide abortion services until licensed by the Department of Health and Hospitals (DHH). The department is the only licensing authority for outpatient abortion facilities in Louisiana.

B. Types of Licenses. The department shall have the authority to issue the following types of licenses:

1. full initial license;
2. provisional initial license;
3. full renewal license; and
4. provisional renewal license.

C. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to an abortion or abortion procedures before the outpatient abortion facility will be issued an initial license to operate.

D. An outpatient abortion facility license shall:

1. be issued only to the person or entity named in the initial licensing application;
2. be valid only for the outpatient abortion facility to which it is issued and only for the physical address named in the initial licensing application;

3. be valid for one year from the date of issuance, unless revoked or suspended, prior to that date, or unless a provisional initial license or provisional renewal license is issued;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the outpatient abortion facility;

5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

E. An outpatient abortion facility licensed by the department may only perform first and second trimester abortions, unless otherwise provided by law.

F. A separately licensed outpatient abortion facility shall not use a name which is substantially the same as the name of another such facility licensed by the department. An outpatient abortion facility shall not use a name which is likely to mislead the patient or their family into believing it is owned, endorsed, or operated by the state of Louisiana.

G. No branches, satellite locations, or offsite campuses shall be authorized for an outpatient abortion facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4405. Initial Licensing Application Process

A. The initial licensing application process includes submission and approval of plans and specifications (construction documents) and an initial licensing application packet, including but not limited to, a facility need review approval letter. No outpatient abortion facility shall accept patients or provide abortion services until in compliance with the provisions of this Chapter.

B. Plan Review Approval. All plans and specifications (construction documents) submitted by or on behalf of the outpatient abortion facility are required to be submitted and approved by the Office of State Fire Marshal (OSFM) as part of the licensing application process.

1. Applicants are required to refer to the OSFM for laws, rules, and editions of adopted codes and standards applicable to plan review by the OSFM.

2. One complete set of plans and specifications (construction documents) with application and review fee shall be submitted to the OFSM for review.

3. Plan review submittal to the OSFM shall be in accordance with R.S. 40:1574, LAC 55:V.Chapter 3, and the following.

a. Modifications to Physical Environment. Any proposed change to the physical environment shall require review for compliance with requirements applicable at the time of the proposed change. Normal maintenance, reroofing, and painting do not require plan review by the OSFM.

b. The specific requirements outlined in the physical environment section of this Chapter.

c. Where services or treatment for four or more patients is provided, requirements applicable to ambulatory health care occupancies, as defined by the most recently state adopted edition of National Fire Protection Association (NFPA) 101, shall apply.

d. Where services or treatment for three or less patients is provided, requirements applicable to construction of business occupancies, as defined by the most recently state adopted edition of NFPA 101, shall apply.

4. Upon approval, one copy of the documents reviewed by the OSFM and one copy of the OSFM plan review letter shall be submitted to the department. Electronic transfer of documents by the OSFM to the department is allowed to satisfy this requirement.

5. Waivers. When a requirement of these rules regarding plan review would impose a hardship, financial or otherwise, but would not adversely affect the health and safety of any patient, the outpatient abortion facility may submit a waiver request to the department, with supporting documentation. The issuance of a waiver by the department does not apply to the OSFM requirements for approval, which must be addressed exclusively by the outpatient abortion facility with the OSFM or the state health officer, as appropriate to the subject matter.

C. Initial Licensing Application Packet. An initial licensing application packet for an outpatient abortion facility shall be obtained from the department. A complete initial licensing application packet shall be submitted to and approved by the department prior to an applicant providing abortion services as an outpatient abortion facility.

D. To be considered complete, the initial licensing application packet shall include the following:

1. a completed outpatient abortion facility initial licensing application and the non-refundable initial licensing fee;

2. a copy of the approval letter of the architectural facility plans for the outpatient abortion facility by the OSFM;

3. a copy of the on-site inspection report with approval for occupancy from the OSFM;

4. a copy of the health inspection report from the Office of Public Health (OPH);

5. an organizational chart identifying the name, position, and title of each person composing the governing body and key administrative personnel;

6. a floor sketch or drawing of the premises to be licensed;

7. a copy of the facility need review approval letter; and

8. any other documentation or information required by department for licensure.

E. If the initial licensing application packet is incomplete as submitted, the applicant shall be notified in writing of the missing information and shall have 90 calendar days from receipt of the notification to submit the additional requested information. If the additional requested information is not timely submitted to the department within 90 calendar days, the initial licensing application shall be closed. If an initial licensing application is closed, an applicant who is still interested in operating an outpatient abortion facility must submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again, subject to any facility need review approval.

F. Initial Licensing Surveys. Upon receipt of a complete initial licensing application packet, the department shall conduct an on-site initial licensing survey prior to issuing a full initial license. The initial licensing survey shall be announced.

1. If it is determined that the applicant is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, and a potential threat to the health, safety, and welfare of the patients is presented, the department shall deny the initial licensing application.

2. If it is determined that the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, the department shall issue a full initial license to the applicant.

G. Full Initial License. The full initial license issued by the department shall be valid until the expiration date shown on the license unless the license is revoked or suspended prior to that date.

1. If it is determined that the applicant is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, but the department, in its sole discretion determines that the noncompliance does not present a threat to the health, safety, and welfare of the patients, the department may issue a provisional initial license.

H. Provisional Initial License. The provisional initial license issued by the department shall be valid for a period not to exceed six months.

1. When a provisional initial license is issued by the department, the applicant shall submit a plan of correction to the department for approval and also shall be required to correct all deficiencies prior to the expiration of the provisional initial license.

2. Upon receipt of the applicant's plan of correction, the department shall conduct an unannounced follow-up survey, either on-site or by desk review, to ensure the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures.

a. Following the follow-up survey, if it is determined that the applicant has corrected all deficiencies and has maintained compliance during the period of the provisional license, the department shall issue a full initial license for the remainder of the year.

b. Following the follow-up survey, if it is determined that the applicant has failed to correct all deficiencies, the provisional initial license shall expire unless otherwise determined by the department. The applicant shall be required to submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again subject to any facility need review approval.

I. Informal Reconsideration and Administrative Appeal. The outpatient abortion facility does not have the right to request an informal reconsideration and/or an administrative appeal of the issuance of a provisional initial license. An outpatient abortion facility that has been issued a provisional initial license is considered licensed and operational for the term of the provisional initial license. The issuance of a provisional initial license is not considered to be a denial of an initial licensing application, denial of a license renewal application, or license revocation for the purposes of this Chapter.

J. Informal Reconsideration. An outpatient abortion facility that has been issued a provisional initial license has the right to request an informal reconsideration regarding the validity of the deficiencies cited during the follow-up survey.

1. The request for an informal reconsideration must be in writing and received by HSS within five days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

2. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an informal reconsideration.

K. Administrative Appeal. An outpatient abortion facility that has been issued a provisional initial license has the right to request an administrative appeal regarding the validity of the deficiencies cited during the follow-up survey.

1. The request for an administrative appeal must be in writing and received by the Division of Administrative Law (DAL), or its successor, within 15 days of receipt of the statement of deficiencies.

2. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an administrative appeal.

4. Upon expiration of the provisional initial license, the outpatient abortion facility shall immediately cease and desist providing abortion services unless the DAL, or its successor, issues a stay of the expiration.

5. Stay of the Expiration. The request for a stay of the expiration must be submitted with the request for an administrative appeal and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

a. Following a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the outpatient abortion facility, the stay may be granted by the DAL, or its successor.

6. If a timely request for an administrative appeal is received, the DAL, or its successor, shall conduct the

administrative appeal within 90 calendar days of the docketing of the administrative appeal. For good cause shown, the DAL, or its successor, may grant one extension, not to exceed 90 calendar days.

a. If the final decision of the DAL, or its successor, is to remove all deficiencies, the outpatient abortion facility's license shall be granted/re-instated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

b. If the final decision of the DAL, or its successor, is to uphold the deficiencies and affirm the expiration of the provisional initial license, the outpatient abortion facility shall:

i. immediately cease and desist providing abortion services as an outpatient abortion facility;

ii. return the outpatient abortion facility license to the department; and

iii. notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4407. Survey Activities

A. Any applicant or outpatient abortion facility shall be subject to licensing surveys conducted by department surveyors to ensure that an applicant or outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, and also to ensure there is no present threat to the health, safety, and welfare of the patient.

B. Any applicant or outpatient abortion facility subject to licensing surveys conducted by the department shall:

1. allow department surveyors access to any and all requested documents and information on the licensed premises, including, but not limited to, patient medical records and outpatient abortion facility records;

2. allow department surveyors access to interview any staff or other persons as necessary or required; and

3. not interfere or impede the survey process for department surveyors while conducting any survey.

C. The department is entitled to access all books, records, or other documents maintained by or on behalf of the outpatient abortion facility on the licensed premises to the extent necessary to ensure compliance with this Chapter. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the outpatient abortion facility as necessary to determine or verify compliance with this Chapter.

D. Types of Surveys. The department shall have the authority to conduct the following types of surveys.

1. Initial Licensing Surveys. The department shall conduct an on-site initial licensing survey to ensure the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures prior to issuing a full initial license. All initial licensing surveys shall be announced.

2. Annual Licensing Surveys. The department shall conduct an annual licensing survey. All annual licensing surveys shall be unannounced.

3. Complaint Surveys. The department shall conduct complaint surveys when a complaint is lodged against an outpatient abortion facility in accordance with R.S. 40:2009.13 et seq. All complaint surveys shall be unannounced.

4. Follow-up Surveys. The department may conduct a follow-up survey to ensure the outpatient abortion facility has corrected all deficiencies cited in the previous survey and is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures. All follow-up surveys shall be unannounced.

E. Statement of Deficiencies. Following any survey, the department surveyors shall complete the statement of deficiencies documenting relevant findings including the deficiency, the applicable governing rule, and the evidence supporting why the rule was not met including, but not limited to, observations, interviews, and record review of information obtained during the survey. The outpatient abortion facility shall receive a copy of the statement of deficiencies.

1. Display. The following statements of deficiencies issued by the department to the outpatient abortion facility must be posted in a conspicuous place on the licensed premises:

a. the most recent annual licensing survey statement of deficiencies; and

b. any follow-up and/or complaint survey statement of deficiencies issued after the most recent annual licensing survey.

2. Public Disclosure. Any statement of deficiencies issued by the department to an outpatient abortion facility shall be available for disclosure to the public within 30 calendar days after the outpatient abortion facility submits an acceptable plan of correction to the deficiencies or within 90 days of receipt of the statement of deficiencies, whichever occurs first.

F. Plan of Correction. The department may require a plan of correction from an outpatient abortion facility following any survey wherein deficiencies have been cited. The fact that a plan of correction is accepted by the department does not preclude the department from pursuing other actions against the outpatient abortion facility as a result of the cited deficiencies.

G. Informal Reconsideration. The applicant and/or outpatient abortion facility shall have the right to request an informal reconsideration of any deficiencies cited during any

initial licensing survey, annual licensing survey, and follow-up survey.

1. The request for an informal reconsideration must be in writing and received by HSS within 10 calendar days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

2. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of the deficiency or deficiencies cited in any survey shall not be the basis for an informal reconsideration.

4. The outpatient abortion facility may appear in person at the informal reconsideration and may be represented by counsel.

5. The outpatient abortion facility shall receive written notice of the results of the informal reconsideration.

6. The results of the informal reconsideration shall be the final administrative decision regarding the deficiencies and no right to an administrative appeal shall be available.

H. Complaint Survey Informal Reconsideration. Pursuant to R.S. 40:2009.13 et seq., an outpatient abortion facility shall have the right to request an informal reconsideration of the validity of the deficiencies cited during any complaint survey and the complainant shall be afforded the opportunity to request an informal reconsideration of the findings.

1. The department shall conduct the informal reconsideration by desk review.

2. The outpatient abortion facility and the complainant shall receive written notice of the results of the informal reconsideration.

3. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), the results of the informal reconsideration shall be the final administrative decision and no right to an administrative appeal shall be available.

I. Complaint Survey Administrative Appeal. Pursuant to R.S. 40:2009.16, the outpatient abortion facility and the complainant have the right to request an administrative appeal on a complaint in which the department determines that the complaint concerns a patient in a facility and involves issues that have resulted or are likely to result in serious harm or death to a patient.

H. Sanctions. The department may impose sanctions as a result of deficiencies cited following any survey. A sanction may include, but is not limited to:

1. civil fine(s);
2. a plan of correction;
3. revocation of license;
4. denial of license renewal application;
5. immediate suspension of license; and
6. any and all sanctions allowed under federal or state law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4409. Changes in Outpatient Abortion Facility Information or Key Administrative Personnel

A. An outpatient abortion facility license shall be valid for the person or entity named as the outpatient abortion facility and for the physical address provided by the applicant on the initial licensing application or by the outpatient abortion facility in the licensing renewal application submitted to the department.

B. Change of Information. Any change regarding the outpatient abortion facility's entity name, "doing business as" name, mailing address, telephone number, or any combination thereof, shall be reported in writing to the department within five calendar days of the change. Any change regarding the entity name or "doing business as" name requires a change to the outpatient abortion facility license and shall require a $25 fee for the issuance of an amended license.

C. Change of Key Administrative Personnel. Any change regarding the outpatient abortion facility's key administrative personnel shall be reported in writing to the department within five calendar days of the change. For the purposes of this Chapter, key administrative personnel includes the administrator and medical director, and the outpatient abortion facility shall provide the individual's name, hire date, and qualifications as defined in this Chapter.

D. Change of Ownership. A change of ownership (CHOW) of an outpatient abortion facility shall be reported in writing to the department at least five calendar days prior to the change. Within five calendar days following the change, the new owner shall submit to HSS all legal documents relating to the CHOW, an initial licensing application packet, and the non-refundable initial licensing fee. Once all required documentation and information is submitted and complete, HSS will review. If the CHOW is approved, the department shall issue a new license in the name of the new owner.

1. If the department has issued a notice of license revocation or a notice of immediate suspension at the time the CHOW is submitted, the department shall deny the CHOW.

E. Change of Physical Address. An outpatient abortion facility that intends to change the physical address is required to obtain plan review approval from the OSFM in accordance with the provisions of this Chapter.

1. Because the license of an outpatient abortion facility is not transferrable or assignable, any proposed change in the physical address requires the outpatient abortion facility to submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee. In addition, the outpatient abortion facility must submit a written notice of intent to relocate to the HSS at the time the plan review request is submitted to the OSFM for approval.

2. The department shall conduct an announced on-site survey at the proposed new location prior to relocation of the facility.

3. Any change regarding the outpatient abortion facility's physical address shall result in a new anniversary date for the license issued.

F. Duplicate License. Any request for a duplicate license shall be accompanied by a $25 fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4411. License Renewal Application Process

A. License Renewal Application Packet. A license renewal application packet for an outpatient abortion facility shall be obtained from the department. A complete license renewal application packet shall be submitted to the department at least 30 calendar days prior to the expiration of the current license.

B. To be considered complete, the license renewal application packet shall include the following:

1. a completed outpatient abortion facility license renewal application and the non-refundable license renewal fee;

2. a copy of the most current on-site inspection report with approval for occupancy from the OSFM;

3. a copy of the most current health inspection report with approval for occupancy from the OPH; and

4. any other documentation required by the department for licensure.

C. If the license renewal application packet is incomplete as submitted, the outpatient abortion facility shall be notified in writing of the missing information, and shall have 10 calendar days from receipt of the notification to submit the additional requested information. If the additional requested information is not received prior to the expiration of the current license, it will result in the voluntary non-renewal of the outpatient abortion facility license.

D. Annual Licensing Survey. Upon receipt of a complete license renewal application packet, the department may conduct an on-site annual licensing survey. This annual licensing survey shall be unannounced.

1. If it is determined that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, and that a potential threat to the health, safety, and welfare of the patients is presented, the department shall deny the license renewal application.

2. If it is determined that the outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, the department shall issue a full renewal license to the outpatient abortion facility.

E. Full Renewal License. The full renewal license issued by the department shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

1. If it is determined that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, and welfare of the patients, the department may issue a provisional renewal license.

F. Provisional Renewal License. The provisional renewal license issued by the department shall be valid for a period not to exceed six months.

1. At the discretion of the department, the provisional renewal license may be extended for an additional period not to exceed 90 calendar days in order for the outpatient abortion facility to correct the deficiencies cited following any survey.

2. When a provisional renewal license is issued by the department, the outpatient abortion facility shall submit a plan of correction to the department for approval and also shall be required to correct all deficiencies prior to the expiration of the provisional renewal license.

3. Upon receipt of the outpatient abortion facility's plan of correction, the department shall conduct an unannounced follow-up survey, either on-site or by desk review, to ensure the outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures.

a. Following the follow-up survey, if it is determined that the outpatient abortion facility has corrected all deficiencies and has maintained compliance during the period of the provisional license, the department may issue a full renewal license for the remainder of the year until the anniversary date of the issuance of the outpatient abortion facility license.

b. Following the follow-up survey, if it determined that the outpatient abortion facility has failed to correct all deficiencies or has not maintained compliance during the period of the provisional renewal license, or if new deficiencies are cited during the follow-up survey that present a threat to the health, safety, and welfare of a patient, the provisional renewal license shall expire unless otherwise determined by the department. The outpatient abortion facility shall submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again, subject to any facility need review approval.

G. The issuance of a full renewal license does not in any manner affect any previously existing sanction by the department against the outpatient abortion facility including, but not limited to, a civil fine(s), plan of correction, revocation of license, or immediate suspension of license.

H. If the department has issued a notice of license revocation or notice of immediate suspension of license at the time the license renewal application packet is submitted, the department shall deny the license renewal application.

I. Informal Reconsideration and Administrative Appeal. The outpatient abortion facility does not have the right to request an informal reconsideration and/or an administrative appeal of the issuance of a provisional renewal license. An outpatient abortion facility that has been issued a provisional renewal license is considered licensed and operational for the term of the initial renewal provisional license. The issuance of a provisional renewal license is not considered to be a denial of an initial licensing application, denial of a license renewal application, or license revocation for the purposes of this Chapter.

J. Informal Reconsideration. An outpatient abortion facility that has been issued a provisional renewal license has the right to request an informal reconsideration regarding the validity of the deficiencies cited during the follow-up survey.

1. The request for an informal reconsideration must be in writing and received by HSS within five days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

2. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an informal reconsideration.

K. Administrative Appeal. An outpatient abortion facility that has been issued a provisional renewal license has the right to request an administrative appeal regarding the validity of the deficiencies cited during the follow-up survey.

1. The request for an administrative appeal must be in writing and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

2. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an administrative appeal.

4. Upon expiration of the provisional renewal license, the outpatient abortion facility shall immediately cease and desist providing abortion services unless the DAL, or its successor, issues a stay of the expiration.

5. Stay of the Expiration. The request for a stay of the expiration must be submitted with the request for an administrative appeal and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

a. Following a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the outpatient abortion facility, the stay may be granted by the DAL, or its successor.

6. If a timely request for an administrative appeal is received, the DAL, or its successor, shall conduct the administrative appeal within 90 calendar days of the docketing of the administrative appeal. For good cause shown, the DAL, or its successor, may grant one extension, not to exceed 90 calendar days.

a. If the final decision of the DAL, or its successor, is to remove all deficiencies, the outpatient abortion facility's license will be granted/re-instated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

b. If the final decision of the DAL, or its successor, is to remove some but not all deficiencies, the department shall have the discretion to determine the operational status of the outpatient abortion facility.

c. If the final decision of the DAL, or its successor, is to uphold the deficiencies and affirm the expiration of the provisional renewal license, the outpatient abortion facility shall:

i. immediately cease and desist providing abortion services as an outpatient abortion facility;

ii. return the outpatient abortion facility license to the department; and

iii. notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

L. Voluntary Non-Renewal of License

1. If an outpatient abortion facility fails to timely renew its license, the license shall expire on its face and is considered to be a voluntary non-renewal of license. At such time, the outpatient abortion facility shall immediately cease and desist providing abortions as an outpatient abortion facility.

2. Notice of Voluntary Non-Renewal of License. The outpatient abortion facility must provide advanced written notice of its voluntary non-renewal of license at least 30 calendar days prior to the date of the expiration of the outpatient abortion facility license. The notice of voluntary non-renewal of the license must be provided to all of the outpatient abortion facility's staff, including the medical director, to any patient having an abortion procedure within the last 30 calendar days of operation, and to HSS.

3. In addition, the outpatient abortion facility shall notify HSS in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person.

4. As this is a voluntary action on the part of the outpatient abortion facility, no informal reconsideration or administrative appeal rights shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4413. Cessation of Business

A. Outpatient Abortion Facility Duties and Responsibilities. An outpatient abortion facility that intends to close or cease operations shall comply with the procedures of this Chapter.

1. Notice of Cessation of Business. The outpatient abortion facility must provide advanced written notice of its cessation of business at least 30 calendar days prior to the date it intends to cease business operations. The notice of cessation of business must be provided to all the outpatient abortion facility's staff, including the medical director, to any patient having an abortion procedure within the last 30 days of operation, and to HSS.

2. In addition, the outpatient abortion facility must notify HSS in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person.

B. If an outpatient abortion facility fails to follow the procedures of this Chapter, any owner, officer, member, manager, director, or administrator of the outpatient abortion facility may be prohibited from owning, managing, directing, or operating another outpatient abortion facility in the state of Louisiana for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4415. Denial of an Initial License, Denial of License Renewal Application, and License Revocation

A. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, and a potential threat to the health, safety, and welfare of the patients is presented.

2. The department shall deny an initial license for any of the reasons a license may be revoked or non-renewed pursuant to the provisions of this Chapter.

B. Denial of License Renewal Application and License Revocation. The department may deny a license renewal application or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures;

2. failure to comply with the terms and provisions of an education letter or settlement agreement;

3. failure to protect a patient from any act posing a threat to a patient's health and safety while on the licensed premises receiving services provided by the outpatient abortion facility;

4. knowingly providing false, forged, or altered statements or information on any documentation required to be submitted to the department or required to be maintained by the outpatient abortion facility, including, but not limited to:

a. the initial licensing application packet or the license renewal application packet;

b. data forms;

c. patient medical records or outpatient abortion facility records; or

d. matters under investigation by the department, the Office of the Attorney General, or law enforcement agencies;

5. knowingly making a false statement or providing false, forged, or altered information or documentation to DHH employees or to law enforcement agencies;

6. employing false, fraudulent, or misleading advertising practices;

7. an owner, officer, member, manager, administrator, director, managing employee, or person designated to manage or supervise patient care has either pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the adjudicating court:

a. For purposes of these provisions, conviction of a felony means a felony relating to any of the following:

i. the violence, abuse, or neglect of a patient;

ii. cruelty, exploitation, or the sexual battery of a juvenile or the infirmed;

iii. a drug offense;

iv. crimes of a sexual nature;

vi. possession, use of a firearm or deadly weapon; or

vii. fraud or misappropriation of federal or state funds;

8. failure to comply with all reporting requirements in a timely manner, as required by all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures;

9. failure to allow the department surveyors access to any and all requested documents and information on the licensed premises, including, but not limited to, patient medical records and outpatient abortion facility records;

10. failure to allow the department surveyors access to interview any staff or other persons as necessary or required;

11. interfering or impeding with the survey process;

12. bribery, harassment, intimidation, or solicitation of any patient, by or on behalf of the outpatient abortion facility, designed to cause that patient to use or retain the services of the outpatient abortion facility;

13. failure to follow the cessation of business procedures as provided in this Chapter; or

14. failure to timely pay any licensing fees, outstanding sanctions, or other fees due to the department. For the purposes of this Chapter, any payments returned for insufficient funds are considered failure to timely pay.

C. Notice. The secretary shall provide 30 calendar days written notice of the denial of initial license, notice of denial of license renewal application, and notice of license revocation.

D. Informal Reconsideration. The applicant and/or outpatient abortion facility has the right to request an informal reconsideration of a decision by the department to deny an initial license, to deny a license renewal application, or to issue a revocation action of a license to operate an outpatient abortion facility. This informal reconsideration is limited to the reconsideration of the deficiencies or findings which make the basis for the license denial or revocation action and the results of this reconsideration are forwarded to the secretary for review and decision regarding the denial or revocation action. The applicant and/or outpatient

abortion facility will receive written notice of the final results and decision. However, there is no right to request an informal reconsideration of a voluntary non-renewal of license as provided in this Chapter.

1. The request for an informal reconsideration must be in writing and received by HSS within 15 calendar days of receipt of the notice of the denial of initial license, notice of denial of license renewal application, or notice of license revocation.

2. The request for an informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the applicant and/or outpatient abortion facility in writing.

4. The applicant and/or outpatient abortion facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a deficiency or deficiencies that is the basis for the denial of initial license, denial of license renewal application, or license revocation shall not be a basis for an informal reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The applicant and/or outpatient abortion facility shall receive written notice of the results of the informal reconsideration.

E. Administrative Appeals. The applicant and/or outpatient abortion facility has the right to request a suspensive administrative appeal of the secretary's decision to deny an initial license, deny a license renewal application, or to revoke a license to operate an outpatient abortion facility. There is no right to request a suspensive administrative appeal of a voluntary non-renewal of license as provided in this Chapter.

1. The request for a suspensive administrative appeal must be in writing and received by the Office of the Secretary within 30 calendar days of receipt of the notice of the results of the informal reconsideration. A copy of the request for a suspensive administrative appeal shall be submitted to the DAL, or its successor.

a. Administrative Appeal Only. The applicant and/or outpatient abortion facility may forego its right to an informal reconsideration and proceed directly to a suspensive administrative appeal. In such a case, the request for a suspensive administrative appeal must be in writing and received by the Office of the Secretary within 30 calendar days of receipt of the notice of denial of initial licensing application, notice of denial of license renewal application, or notice of license revocation. The provisions of this Chapter shall otherwise govern this suspensive administrative appeal.

2. If a timely request for a suspensive administrative appeal is received, the Office of the Secretary shall forward the applicant and/or outpatient abortion facility's request and any accompanying documentation, to the DAL, or its successor, to be docketed, and send a copy of such request to the applicant or outpatient abortion facility either by U.S. mail, facsimile, or email.

3. The request for a suspensive administrative appeal shall state the basis and specific reasons for the appeal, and include any documentation that demonstrates that the determination was made in error.

4. If a timely request for a suspensive administrative appeal is received by the Office of the Secretary, the denial of license renewal application or license revocation shall be suspensive, and the outpatient abortion facility shall be allowed to continue to operate and provide abortions services until such time as the DAL, or its successor, issues a final administrative decision.

a. If the secretary determines that the deficiencies cited during any survey pose an imminent or immediate threat to the health, welfare, and safety of a patient, the denial of the license renewal application or license revocation may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary makes such a determination, the outpatient abortion facility will be notified in writing.

5. Correction of a deficiency or deficiencies that is the basis for the denial of the initial license, denial of the license renewal application, or license revocation shall not be a basis for a suspensive administrative appeal.

6. If the final decision of the DAL, or its successor, is to reverse the denial of an initial license, the applicant's license will be granted upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department. If the final decision of the DAL, or its successor, is to reverse the denial of a license renewal application or license revocation, the license will be reinstated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

7. If the final decision of the DAL, or its successor, is to affirm the denial of a license renewal application or license revocation, the outpatient abortion facility shall:

a. immediately cease and desist providing abortion services as an outpatient abortion facility;

b. provide written notice to all of the outpatient abortion facility's staff, including the medical director, and to any patient having an abortion procedure within the last 30 calendar days of operation;

c. return the outpatient abortion facility license to the department; and

d. notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

F. Prohibition Following Loss of License. If a license is revoked or license renewal application is denied other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the outpatient abortion facility may be prohibited from owning, managing, directing, or operating another outpatient abortion facility in the state of Louisiana for two years.

G. If the department has issued a notice of license revocation or notice of immediate suspension of license at the time the license renewal application is submitted, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4417. Immediate Suspension of License

A. Pursuant to R.S. 2175.6, the secretary may issue an immediate suspension of a license if any investigation or survey determines that the applicant or outpatient abortion facility is in violation of any provision of R.S. 40:2175 et seq., in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient.

B. Notice of Immediate Suspension of License. The secretary shall provide written notice of the immediate suspension of license.

C. Effective date. The suspension of the license is effective immediately upon the receipt of the written notice of immediate suspension of license.

D. Administrative Appeal. The outpatient abortion facility shall have the right to request a devolutive administrative appeal of the immediate suspension of license.

1. The request for a devolutive administrative appeal must be in writing and submitted to the DHH Office of the Secretary within thirty 30 calendar days of receipt of the notice of immediate suspension of license.

2. The request for a devolutive administrative appeal shall specify in detail the reasons why the appeal is lodged.

E. Injunctive Relief. The outpatient abortion facility shall have the right to file for injunctive relief from the immediate suspension of license.

1. Venue. Any action for injunctive relief shall be filed with the district court for the Parish of East Baton Rouge.

2 Burden of Proof. Before injunctive relief may be granted, the outpatient abortion facility shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of license was arbitrary and capricious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter B. Administration and Organization

§4421. Governing Body

A. The outpatient abortion facility shall have a governing body that assumes full responsibility for the total operation of the outpatient abortion facility.

1. The governing body shall consist of at least one individual who will assume full responsibility.

2. The outpatient abortion facility shall maintain documentation on the licensed premises identifying the following information for each member of the governing body:

a. name;

b. contact information;

c. address; and

d. terms of membership.

3. The governing body shall develop and adopt bylaws which address its duties and responsibilities.

4. The governing body shall, at minimum, meet annually and maintain minutes of such meetings documenting the discharge of its duties and responsibilities.

B. The governing body shall be responsible for:

1. ensuring the outpatient abortion facility's continued compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures;

2. designating a person to act as the administrator and delegating sufficient authority to this person to manage the day-to-day operations of the facility;

3. designating a person to act as the medical director and delegating authority to this person to allow him/her to direct the medical staff, nursing personnel, and medical services provided to each patient;

4. evaluating the administrator and medical director's performance annually, and maintaining documentation of such in their respective personnel files;

5. ensuring that upon hire and prior to providing care to patients and, at a minimum, annually, each employee is provided with orientation, training, and evaluation for competency according to their respective job descriptions;

6. developing, implementing, enforcing, monitoring, and annually reviewing in collaboration with the administrator, medical director, and registered nurse, written policies and procedures governing the following:

a. the scope of medical services offered;

b. personnel practices, including, but not limited to:

i. developing job descriptions for licensed and non-licensed personnel consistent with the applicable scope of practice as defined by federal and state law;

ii. developing a program for orientation, training, and evaluation for competency; and

iii. developing a program for health screening;

c. the management of medical emergencies and the immediate transfer to a hospital of patients requiring emergency medical care beyond the capabilities of the outpatient abortion facility which shall identify emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care; and

d. disaster plans for both internal and external occurrences;

7. approving all bylaws, rules, policies, and procedures formulated in accordance with all applicable state laws, rules, and regulations;

8. ensuring all bylaws, rules, policies, and procedures formulated in accordance with all applicable state laws, rules, and regulations are maintained on the licensed premises and readily accessible to all staff;

9. maintaining organization and administration of the outpatient abortion facility;

10. acting upon recommendations from the medical director relative to appointments of persons to the medical staff;

11. ensuring that the outpatient abortion facility is equipped and staffed to meet the needs of its patients;

12. ensuring services that are provided through a contract with an outside source are provided in a safe and effective manner;

13. ensuring that the outpatient abortion facility develops, implements, monitors, enforces, and reviews at a minimum, quarterly, a quality assurance and performance improvement (QAPI) program;

14. developing, implementing, monitoring, enforcing, and reviewing annually written policies and procedures relating to communication with the administrator, medical director, and medical staff to address problems, including, but not limited to, patient care, cost containment, and improved practices;

15. ensuring that the outpatient abortion facility conducts annual drills in accordance with the disaster plan and documents same;

16. ensuring that the outpatient abortion facility procures emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care; and

17. ensuring that the outpatient abortion facility orders and maintains a supply of emergency drugs for stabilizing and/or treating medical and surgical complications for intra-operative and post-operative care on the licensed premises, subject to the approval by the medical director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4423. Staffing Requirements, Qualifications, and Responsibilities

A. General Provisions. An outpatient abortion facility shall have enough qualified personnel as indicated under this Chapter who are available to provide direct patient care as needed by all patients and administrative and nonclinical services needed to maintain the operation of the outpatient abortion facility in accordance with the provisions of this Chapter.

B. Administrator. The outpatient abortion facility shall have an administrator designated by the governing body who is responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility. The administrator shall be an on-site employee who shall be employed on a full-time basis.

1. Qualifications. The administrator shall be at least 18 years of age and possess a high school diploma or equivalent.

2. The outpatient abortion facility shall designate a person to act in the administrator's absence, and shall ensure this person meets the qualifications of the administrator pursuant to this Chapter. The outpatient abortion facility shall maintain documentation on the licensed premises identifying this person and evidence of their qualifications.

3. Duties and Responsibilities. The administrator shall be responsible for:

a. employing licensed and non-licensed qualified personnel to provide the medical and clinical care services to meet the needs of the patients being served;

b. ensuring that upon hire and prior to providing care to patients, each employee is provided with orientation, training, and evaluation for competency as provided in this Chapter;

c. ensuring that written policies and procedures for the management of medical emergencies and the immediate transfer to a hospital of patients requiring emergency medical care beyond the capabilities of the outpatient abortion facility are developed, implemented, monitored, enforced, and annually reviewed, and readily accessible to all staff;

d. ensuring that emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care are maintained in proper working order and are available for use on a day-to-day basis on the licensed premises;

e. ensuring that a licensed physician who has admitting privileges or has a written transfer agreement with another physician(s) who has admitting privileges at a local hospital within the same town or city to facilitate emergency care is on the licensed premises when a patient is scheduled to undergo an abortion procedure;

f. ensuring that disaster plans for both internal and external occurrences are developed, implemented, monitored, enforced, and annually reviewed and that annual drills are held in accordance with the disaster plan. The outpatient abortion facility shall maintain documentation on the licensed premises indicating the date, type of drill, participants, and materials;

g. ensuring that a licensed medical professional trained in CPR and trained in the use of emergency equipment is on the licensed premises at all times when abortion procedures are being performed;

h. ensuring that patient medical records are completely and accurately documented consistent with the provisions of this Chapter within 30 days from the abortion procedure; and

i. maintaining current credentialing and/or personnel files on each employee that shall include documentation of the following:

i. a completed employment application;

ii. job description;

iii. a copy of current health screening reports conducted in accordance with the outpatient abortion facility policies and procedures and in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures;

iv. documentation that each employee has successfully completed orientation, training, and evaluation for competency related to each job skill as delineated in their respective job description;

v. documentation that all licensed nurses have successfully completed a basic life support course; and

vi. other pertinent information as required by the outpatient abortion facility's policies and procedures.

4. All credentialing and/or personnel files shall be current and maintained on the licensed premises at all times.

C. Medical Staff. The outpatient abortion facility shall provide medical and clinical services. The outpatient abortion facility shall employ qualified medical staff to meet the needs of the patients.

1. Qualifications. A medical staff member shall be a physician, as defined in this Chapter, who has completed, at a minimum, a residency rotation in obstetrics/gynecology.

2. Medical Director. The outpatient abortion facility shall have a medical director designated and approved by and accountable to the governing body who is responsible for all medical care provided to patients in the facility, and for the ethical and professional practices of the medical staff.

a. When an outpatient abortion facility has only one medical staff member, that individual shall serve as medical director.

b. The outpatient abortion facility shall designate a physician, as defined in this Chapter, to act in the medical director's absence. The outpatient abortion facility shall maintain documentation on the licensed premises identifying this physician and evidence of his/her qualifications.

c. Duties and Responsibilities. The medical director shall be responsible for:

i. developing, implementing, enforcing, monitoring, and annually reviewing written policies and procedures governing the medical and clinical services at the outpatient abortion facility, including, but not limited to:

(a). pre-operative procedures, intraoperative procedures, post-operative care and procedures, discharge, and follow-up care;

(b). laboratory services;

(c). infection control;

(d). pharmaceutical services, including, but not limited to, identifying the drugs dispensed and/or administered to patients on the licensed premises;

(e). anesthesia services;

(f). emergency medical services, including, but not limited to:

(i). identifying emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care; and

(ii). identifying and ensuring that a supply of emergency drugs for stabilizing and/or treating medical and surgical complications are maintained on the licensed premises;

(g) patient medical records and reporting requirements;

(h). the examination of fetal tissue;

(i). the disposition of medical waste;

(j). physical environment; and

(k). quality assurance and performance improvement (QAPI) program;

ii. developing, implementing, enforcing, monitoring, annually reviewing written bylaws, rules, policies, and procedures for self-governing of the professional activity of all medical staff members including, but not be limited to:

(a). the structure of the medical staff;

(b). review of the credentials, and training, and competency of each medical staff member to perform medical and clinical services, at least every two years, and to delineate and to recommend approval for individual privileges;

(i). when an outpatient abortion facility employs one physician, the review shall be conducted by a peer physician, at least every two years, according to the provisions of this Section;

(ii). the recommendation shall be in writing and maintained on the licensed premises in the credentialing file;

(iii). verification that each member of the medical staff is a doctor who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose license does not restrict the doctor from performing the services at the outpatient abortion facility;

(iv). evaluation for competency and past performance of each medical staff member, at a minimum, annually, which shall include monitoring and evaluation of patient care provided;

(v). medical staff discipline; and

(vi). grievance process;

iii. monitoring and reviewing, at a minimum, quarterly, in collaboration with the QAPI team/committee, the medical and clinical services provided by the outpatient abortion facility to ensure acceptable levels of quality of care and services;

iv. reviewing reports of all accidents or unusual incidents occurring on the licensed premises and reporting to the administrator potential health and safety hazards;

v. ensuring that each patient receiving medical and clinical services is under the professional care of a member of the medical staff who shall assess, supervise, and evaluate the care of the patient;

vi. ensuring that a member of the medical staff remains on the licensed premises until each patient is assessed to be awake, alert, and medically stable prior to discharge; and

vii. ensuring that a member of the medical staff shall be either present or immediately available by telecommunications to the staff when there is a patient on the licensed premises.

D. Nursing Staff. The outpatient abortion facility shall provide nursing services. The outpatient abortion facility shall employ qualified nursing staff to meet the needs of the patients.

1. Registered Nurse. The outpatient abortion facility shall have a registered nurse (RN) who is responsible for the overall direction of all nursing staff and nursing services provided.

a. Qualifications. The RN shall:

i. have a current, unrestricted Louisiana registered nurse license; and

ii. be in good standing with the Louisiana State Board of Nursing.

2. Duties and Responsibilities. The RN shall be responsible for:

a. developing, implementing, enforcing, monitoring, and annually reviewing written policies and procedures governing the following:

i. personnel, including, but not limited to:

(a). developing a job description that delineates responsibilities and duties for each category of licensed and

non-licensed nursing staff consistent with acceptable nursing standards of practice;

(b). orientation;

(c). training; and

(d). evaluation for competency;

ii. nursing care and services consistent with accepted nursing standards of practice;

b. assigning duties and functions to each licensed and non-licensed employee commensurate with his/her licensure, certification, experience, and competence consistent with acceptable nursing standards of practice;

c. verifying that each licensed nurse possesses a current and unrestricted license to practice nursing in Louisiana and is in good standing with the Louisiana State Board of Nursing;

d. ensuring that the number of nursing staff on duty is sufficient to meet the needs of the patient(s);

e. ensuring that at least one licensed nurse is present when there is a patient receiving or recovering from an abortion procedure on the licensed premises;

f. ensuring that each licensed nurse working at the outpatient abortion facility has successfully completed a basic life support course; and

g. developing, implementing, enforcing, monitoring, and reviewing annually in collaboration with the medical director, written policies and procedures establishing a formalized program of in-service training and evaluation for competency for each category of licensed and non-licensed nursing staff and for all nursing care and services provided at the outpatient abortion facility.

i. The RN shall ensure that the training is related to each job skill as delineated in their respective job description.

ii. The RN shall ensure an evaluation for competency is performed for each category of licensed and non-licensed nursing staff and for all nursing care and services provided.

iii. The RN shall maintain documentation in the personnel file of each nursing staff member evidencing the content of the training that was provided, including the name of the teacher, date, nurse's name, and documents provided.

iv. The RN shall maintain documentation in the personnel file of each nursing staff member evidencing that an evaluation for competency was conducted, including the name of the evaluator, date, nurse's name, and a notation that the nurse is competent in each job skill as delineated in their respective job description.

E. Orientation and Training. The administrator shall develop, implement, enforce, monitor, and annually review, in collaboration with the medical director and registered nurse, written policies and procedures regarding orientation and training of all employees.

1. Orientation. Upon hire and prior to providing care to patients, all employees shall be provided orientation related to the outpatient abortion facility's written policies and procedures governing the following:

a. organizational structure;

b. confidentiality;

c. grievance process;

d. disaster plan for internal and external occurrences;

e. emergency medical services;

f. program philosophy;

g. personnel practices;

h. reporting requirements; and

i. basic skills required to meet the health needs and problems of the patients.

2. Training. Upon hire, and at a minimum, annually, all employees shall be provided training in each job skill as delineated in their respective job description.

a. Medical training of a licensed medical professional shall only be provided by a medical professional with an equivalent or higher license.

b. Training of a non-licensed employee related to the performance of job skills related to medical and clinical services shall only be provided by a licensed medical professional consistent with the applicable standards of practice.

c. All training programs and materials used shall be available for review by HSS.

d. The administrator shall maintain documentation of all of the training provided in each employee's personnel files.

F. Evaluation for Competency. Upon hire, and at a minimum, annually, the outpatient abortion facility shall conduct an evaluation for competency of all employees related to each job skill as delineated in their respective job description.

1. The evaluation for competency shall include the observation of job skills and return demonstration by the employee.

2. Evaluation for competency of a licensed medical professional shall only be provided by a medical professional with an equivalent or higher license.

3. Evaluation for competency of a non-licensed employee related to the performance of job skills related to medical and clinical services shall only be provided by a licensed medical professional consistent with the applicable scope of practice.

4. The administrator shall maintain documentation of all evaluations for competencies in each employee's personnel file.

G. Health Screening. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures governing health screening of personnel in accordance with all applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations. The administrator shall maintain documentation of health screening reports in each employee's personnel file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4425. Patient Medical Records and Reporting Requirements

A. General Provisions

1. The outpatient abortion facility shall establish and maintain a patient medical record on each patient.

2. The patient medical record shall be:

a. completely and accurately documented; and

b. readily available and systematically organized to facilitate the compilation and retrieval of information.

3. The outpatient abortion facility shall ensure the confidentiality of patient medical records, including

information in a computerized medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations.

4. Safeguards shall be established to protect the patient medical records from loss or damage.

B. Retention of Patient Medical Records. Patient medical records shall be retained by the outpatient abortion facility for a period of not less than seven years from the date of discharge. If the woman is a minor, then the medical record of the minor shall be kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. Patient medical records shall be maintained on the premises for at least one year and shall not be removed except under court orders or subpoenas. Any patient medical record maintained off-site after the first year shall be provided to the department for review no later than 24 hours from the time of the department's request.

C. Contents of Patient Medical Record

1. The following minimum data shall be kept on all patients:

a. identification data;

b. date of procedure;

c. medical and social history;

d. anesthesia and surgical history;

e. physical examination notes;

f. chief complaint or diagnosis;

g. clinical laboratory reports;

h. pathology reports;

i. individualized physician's orders;

j. radiological/ultrasound reports;

k. consultation reports (when appropriate);

l. medical and surgical treatment;

m. progress notes, discharge notes, and discharge summary;

n. nurses' notes, including, but not limited to, all pertinent observations, treatments, and medications dispensed and/or administered;

o. medication administration records, including, but not limited to, the date, time, medication, dose, and route.

p. patient medical records shall contain documentation of any and all prescription drugs dispensed to each patient, including, but not limited to the:

i. full name of the patient;

ii. name of the prescribing physician;

iii. name and strength of the drug;

iv. quantity dispensed; and

v. date of issue;

q. signed and dated authorizations, consents, releases, or notices required by all applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations;

r. operative report;

s. anesthesia report, including, but not limited to, the date, time, type of anesthesia, dose, and route; and

t. special procedures reports.

2. Each entry documented in the patient's medical record shall be signed by the physician as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing notes and observations shall be signed by the nurse. All entries shall be in writing and contain the date, time, and signature of the individual(s) delivering the patient care and services.

D. Nothing in this Section is intended to preclude the use of automated or centralized computer systems or any other techniques for the storing of medical records, provided the regulations stated herein are met.

E. Other Reports. The outpatient abortion facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of three years.

F. Reporting Requirements

1. The outpatient abortion facility shall maintain documentation to support that the outpatient abortion facility is compliant with all reporting requirements, including, but not limited to, the induced termination of pregnancy (ITOP) form, and other documentation as required by federal, state, and local statutes, laws, ordinances, and department rules and regulations.

2. The outpatient abortion facility shall report in accordance with all applicable state laws for the reporting of crimes against a child that include but are not limited to:

a. rape;

b. sexual battery;

c. incest; and

d. carnal knowledge of a juvenile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4427. Quality Assurance and Performance Improvement Program (QAPI)

A. The outpatient abortion facility shall develop, implement, enforce, maintain, and annually review a written QAPI program subject to approval by the governing body, which puts systems in place to effectively identify issues for which quality monitoring and performance improvement activities are necessary. The QAPI program shall include plans of action to correct identified issues including, but not limited to, monitoring the effect of implemented changes and making necessary revisions to the plan of action.

1. Plans of Action. The outpatient abortion facility shall develop and implement a QAPI plan of action designed to effectively identify issues for which quality monitoring and performance improvement activities are necessary.

2. The QAPI plan of action shall include the following:

a. processes for receiving input regarding the quality of medical and clinical services received;

b. patient medical records that are complete and current;

c. processes for identifying on a quarterly basis the risk factors that affect or may affect the health and safety of the patients of the outpatient abortion facility receiving medical and clinical services. Examples include, but are not limited to:

i. review and resolution of patient grievances; and

ii. review and resolution of patient/employee incidents involving medication errors and equipment failure;

d. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above.

3. The QAPI outcomes shall be documented and reported to the administrator in writing for action, as necessary, for any identified systemic problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. Verification of Pregnancy. The presence of an intrauterine pregnancy shall be verified by one of the following:

1. urine or serum pregnancy test performed on-site;
2. detection of fetal heart tones; or
3. ultrasonography.

B. Gestational age shall be estimated by the following methods pre-operatively:

1. first date of last menstrual period, if known;
2. pelvic examination; or
3. ultrasonography.

C. Laboratory Tests

1. The laboratory tests listed below shall be performed at least 30 days prior to the abortion procedure:

a. hematocrit or hemoglobin determination; and

b. Rh factor status.

2. The results of the laboratory tests shall be documented in the patient's medical record at least 24 hours prior to the abortion procedure.

3. The physician performing the abortion shall document acknowledgement of the results of the laboratory tests in the patient's medical record prior to the abortion procedure.

D. Minors

1. No physician shall perform or induce an abortion upon any pregnant woman who is under the age of 18 years and who is not emancipated judicially or by marriage unless the physician has received the following documents:

a. a notarized statement, pursuant to R.S. 40:1299.35.5, signed by the mother, father, legal guardian, or tutor of the minor declaring that the affiant has been informed that the minor intends to seek an abortion and that the affiant consents to the abortion; or

b. a court order pursuant to R.S. 40:1299.35.5; and

c. a signed, dated, and timed document by the attending physician and/or licensed nurse, shall be obtained before the administration of any type of anesthesia which indicates if any person has or has not compelled the female child to undergo an abortion against her will.

2. All documentation related to consent and coercion shall be maintained in the medical record.

E. Ultrasound Requirements. Except in the case of a medical emergency, and in addition to the provisions of R.S. 40:1299.35.6, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed in accordance with the provisions of this Section.

1. Qualifications to Perform Ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion or a qualified person who is the physician's agent. For purposes of this Section *qualified person* means a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

2. Requirements. At least 24 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

a. perform an obstetric ultrasound on the pregnant woman; offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

b. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

c. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

d. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form;

e. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

3. Options to view or listen to required medical information shall be in accordance with the provisions of R.S. 40:1299.35.6.

a. A pregnant woman may choose not to exercise her option to request an ultrasound photograph print.

b. A pregnant woman may choose not to view the ultrasound images required to be provided to and reviewed with the pregnant woman.

c. A pregnant woman may choose not to listen to the sounds detected by the fetal heart monitor required to be provided to the pregnant woman.

F. Medical Emergencies. Upon a determination by a physician that a medical emergency, as defined pursuant to R.S. 40:1299.35.6 exists with respect to a pregnant woman, the outpatient abortion facility shall certify in writing the specific medical conditions that constitute the emergency.

The certification shall be placed in the medical file of the woman.

G. Information and Informed Consent pursuant to R.S. 40:1299.35.6

1. Oral and Written Information Provided by Physician or Referring Physician

a. At least 24 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion. The informed consent shall be communicated both orally and in person, and in writing, and shall be provided in a private room.

b. Documentation. The documentation of all such informed consent provided shall be maintained in the patient's medical record.

c. The informed consent shall also contain language explaining the following information to the pregnant woman seeking an abortion:

i. the option of reviewing and receiving an oral explanation of an obstetric ultrasound image of the unborn child;

ii. that the pregnant woman shall not be required to view or receive an explanation of the obstetric ultrasound images;

iii. that the pregnant woman shall not be penalized if she chooses not to view or receive an explanation of the obstetric ultrasound images;

iv. that the physician shall not be penalized if the pregnant woman chooses not to view or receive an explanation of the obstetric ultrasound images; and

v. inclusion in the patient's printed materials of a comprehensive list, compiled by the department, of facilities that offer obstetric ultrasounds free of charge.

2. Oral Information from a Physician or Qualified Person

a. When an initial contact is made by a person seeking to schedule an abortion for herself, a minor, or other adult woman, regardless of the means of contact, the physician who is to perform the abortion or any qualified person acting on behalf of the physician shall inform the person of the internet address of the department's abortion alternatives and informed consent website.

3. Oral Information Provided by Physician, Referring Physician, or Qualified Person

a. At least 24 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. medical assistance may be available for prenatal care, childbirth, and neonatal care and that more detailed information on the availability of such assistance is contained on the department's website and printed materials;

ii. a pamphlet is available that describes the unborn child and contains a directory of agencies that offer an abortion alternative;

iii. the father of the unborn child is liable to assist in the support of the child, even if he has offered to pay for the abortion. In the case of rape, this information may be omitted;

iv. the pregnant woman seeking an abortion is free to withhold or withdraw consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without loss of any state or federally funded benefits to which she might otherwise be entitled.

4. Provision of Printed Materials

a. At least 24 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials pursuant to R.S. 40:1299.35.6 by the physician who is to perform the abortion, the referring physician, or a qualified person.

b. If the pregnant woman seeking an abortion is unable to read the materials, the material shall be read to her.

c. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

5. Certification and Reporting

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 24 hours prior to the abortion. This form shall be maintained in the woman's medical record.

b. Prior to performing the abortion, the physician who is to perform the abortion or his agent receives a copy of the written certification.

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 24 hour period has expired.

6. Medical Emergency. Where a medical emergency, as defined pursuant to R.S. 40:1299.35.6 compels the performance of an abortion, the physician shall orally inform the woman, before the abortion, if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function.

7. Reporting Requirements. Any physician who has provided the information and materials to any woman in accordance with the requirements of this Section shall provide to the department:

a. With respect to a woman upon whom an abortion is performed, all information as required by R.S. 40:1299.35.10 as well as the date upon which the information and materials required to be provided under this Section were provided, as well as an executed copy of the certification form. This form shall be maintained in the woman's medical record.

b. With respect to any woman to whom the printed and oral information and materials have been provided pursuant to R.S. 40:1299.35.6, but upon whom the physician has not performed an abortion, the name and address of the facility where the required information was provided and if executed by the woman, a copy of the certification form required. This form shall be maintained in the woman's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4433. Drug or Chemical Induced Abortion

A. When any drug or chemical is used for the purpose of inducing an abortion as defined in R.S. 40:1299.35.2.1, the physician who prescribed the drug or chemical shall be in the same room and in the physical presence of the pregnant

woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

B. Documentation shall be recorded as to the date, time, method and name and signature of the physician who initially administered, dispensed, or otherwise provided the drug or chemical to the pregnant woman. This documentation shall be maintained in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4435. Intra-operative Procedures

A. The outpatient abortion facility shall ensure that emergency medical equipment and supplies as required by the governing body, medical director and medical staff are available for intra-operative care and shall include, but not limited to:

1. surgical or gynecologic table;
2. surgical instrumentation;
3. emergency drugs for stabilizing and/or treating medical and surgical complications as approved by the medical director;
4. oxygen;
5. intravenous fluids; and
6. sterile dressing supplies.

B. The physician performing the abortion shall be present on the licensed premises prior to the administration of any type of anesthesia.

C. The outpatient abortion facility shall ensure that the medical equipment required for an abortion shall be maintained and immediately available to the physician in the procedure and/or recovery room(s) to provide emergency medical care and services.

D. During the abortion procedure, the patient shall be assessed and monitored by a licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, and any potential sequelae related to the abortion procedure. The results of this assessment shall be documented in the patient's medical record.

E. Immediately following the abortion procedure, the patient shall be assessed and monitored by a licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, and any potential sequelae related to the abortion procedure.

a. The results of this assessment shall be documented in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4437. Post-Operative Care, Procedures, and Discharge

A. Post-Operative Care and Procedures

1. The outpatient abortion facility shall have immediately available a supply of emergency drugs for stabilizing and/or treating medical and surgical complications for post-operative care on the licensed premises.

2. The patient's recovery shall be supervised by a licensed physician or a licensed nurse trained in post-operative care.

3. If general anesthesia is administered during the abortion procedure, the outpatient abortion facility shall have licensed nursing personnel trained in post-anesthesia care.

4. Upon completion of an abortion procedure, the physician shall immediately perform a gross examination of the uterine contents and shall document the findings in the patient's medical record. If no products of conception are visible, the physician shall assess the patient for risk of complications of an incomplete abortion or ectopic pregnancy.

5. Upon admission to the recovery room, the patient shall be assessed for the following, including, but not limited to: level of consciousness, respiratory status, cardio-vascular status, pain level, bleeding, and any potential sequelae related to the abortion procedure. The results of this assessment shall be documented in the patient's medical record.

6. A patient shall not be left unattended in the recovery room.

7. Rh immunoglobulin administration shall be offered to Rh-negative women and documented in the patient's medical record. If Rh immunoglobulin is not administered in the facility, one of the following is required:

a. informed waiver signed by a patient who refuses RH immunoglobulin; or

b. documentation of other arrangements for administration of RH immunoglobulin.

B. Discharge Procedures

1. The patient shall be given verbal and written post-operative instructions for follow-up care. A contact telephone number for post-operative care/services from the facility shall be available to the patient on a 24-hour basis.

2. A member of the medical staff shall remain on the licensed premises until each patient is assessed to be awake, alert, and medically stable prior to discharge.

3. A copy of the discharge instructions signed by the patient and the physician shall be maintained in the patient's medical record.

4. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures to ensure that products of conception are disposed of in compliance with Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), and with any other applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4439. Anesthesia Services

A. Subject to the approval of the medical director, the outpatient abortion facility shall develop, implement, monitor, enforce, and annually review written policies and procedures governing the preparation of and administration of drugs relating to the types of anesthesia administered during the abortion procedure. The outpatient abortion facility shall provide training and evaluation for competency of the types of anesthesia administered during the abortion procedure.

B. Qualifications to Administer Anesthesia. Local anesthesia, nitrous oxide, intramuscular, oral, and intravenous sedation shall be administered by the physician performing the abortion or by licensed nursing staff who

have been deemed competent to administer sedation under the orders and supervision of the physician or pursuant to their scope of practice as defined under the Nurse Practice Act.

C. The physician performing the abortion shall be present on the licensed premises prior to the administration of all types of anesthesia.

D. General anesthesia, if used, shall be administered by an anesthesiologist or certified registered nurse-anesthetist (CRNA) who is under the supervision of the physician performing the abortion.

E. When there is a general anesthesia patient present on the licensed premises, personnel trained in the use of all emergency equipment required shall be present on the premises.

F. A physician shall be present on the licensed premises during the post-anesthesia recovery period until the patient is fully reacted and stable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter D. Physical Environment

§4445. General Requirements

A. General Provisions

1. The outpatient abortion facility shall be designed, constructed, equipped, and maintained to protect the health and safety of patients, personnel, and the public at all times.

2. All openings to the outside shall be maintained to protect against the entrance of insects and animals.

3. An area for at least one stretcher and one wheelchair shall be provided. The area shall not encroach upon any required egress path or other required clear dimension.

4. Flooring in all patient areas shall be readily cleanable, monolithic and joint free, and slip-resistant in accordance with the American Society for Testing and Materials (ASTM), C1028-07e1.

5. Wall finishes in all patient areas shall be smooth, moisture resistant, washable, and free of fissures, open joints, or crevices that may retain or permit passage of dirt particles.

6. Wall bases in all patient areas shall be monolithic and coved with the floor, tightly sealed to the wall, and constructed without voids.

7. A separate waiting area shall be provided that is sufficient in size to provide seating space for patients, staff, and visitors of the patient.

8. Toilet facilities for patients, staff, and visitors shall be installed and maintained in accordance with the requirements of Part XIV (Plumbing) and Part XVII (Public Buildings, Schools, and Other Institutions) of the Louisiana state *Sanitary Code* (LAC 51:XIV and XVII, respectively).

a. Every toilet room shall contain at least one water closet and one lavatory. Such toilet facilities shall be provided with ventilation in accordance with the requirements of LAC 51:XIV and XVII.

b. Hot and cold water delivered through a mixing faucet, soap, and mechanical hand drying devices and/or disposable paper towels shall be provided at all hand washing lavatories/stations.

c. Showers or shower/tub combinations, if provided, shall meet the requirements of LAC 51:XIV.

B. Signage. The outpatient abortion facility shall provide:

1. an exterior sign that can be viewed by the public. The sign shall contain, at a minimum, the ”DBA” name of the facility as it appears on the outpatient abortion facility license issued by the department;

2. clearly identifiable and distinguishable signs for outpatient abortion facilities operating within another facility which shall comply with the provisions of R.S. 40:2007.

C. Procedure Room

1. Abortions shall be performed in a segregated procedure room, removed from general traffic lines with a minimum clear floor area of 360 square feet with a minimum clear dimension of 18 feet.

2. There shall be a hand washing station with hands-free or wrist blade-operable controls within each procedure room and within each recovery room. Fixtures shall not encroach upon any required egress path or other required clear dimension.

D. Recovery Area

1. The outpatient abortion facility shall have a separate recovery room or area with a minimum clear floor area of 80 square feet with a minimum of 4 feet between patient stretchers or beds and adjacent walls (at the stretcher’s sides and foot), and at least 3 feet from the foot of the stretcher or bed to the closed cubicle curtain.

2. The outpatient abortion facility shall have a nurse's station equipped with a countertop, space for supplies, provisions for charting, and a communication system. The nursing station shall be arranged to provide for direct visual observation of all traffic into the recovery area.

E. Equipment and Supply Storage Areas. The outpatient abortion facility shall have:

1. A soiled utility room which contains a flushing-rim clinical sink or equivalent flushing-rim sink, a work counter, a hand washing station, waste receptacle(s), and a space for soiled linen.

2. A clean utility room which is used for clean or sterile supplies.

3. An equipment and supply storage room with minimum 70 square feet of floor space shall be provided for equipment and supplies used in the procedure room.

4. A designated separate space shall be provided for soiled materials storage. Soiled materials shall not be stored or transported through the clean laundry area.

F. If the outpatient abortion facility maintains an in-house laundry, the areas shall be designed in accordance with acceptable hospital laundry design.

G. Signage in Abortion Facilities. The outpatient abortion facility shall ensure a sign is obtained from the department in accordance with the Forced Abortion Prevention Sign Act.

1. Display. The sign shall be posted on the licensed premises and shall be clearly visible to patients. The sign provided shall be conspicuously posted in each patient admission area, waiting room, and patient consultation room used by patients on whom abortions are performed, induced, prescribed for, or who are provided with the means for an abortion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4447. Infection Control

A. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review its written infection control program. The purpose of this program shall seek to minimize infections and communicable diseases through prevention, investigation, and reporting of infections. This program shall include all contracted services.

B. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review, with the approval of the medical director, written policies and procedures for preventing, identifying, reporting, investigating, controlling, and immediately implementing corrective actions relative to infections and communicable diseases of patients and personnel. At a minimum, the policies shall address:

1. alcohol based hand rub and hand hygiene;
2. use of all types of gloves;
3. decontamination of equipment between each patient use, including, but not limited to, chairs and procedure room tables;
4. linen cleaning, if applicable;
5. waste management;
6. environmental cleaning;
7. reporting, investigating, and monitoring of surgical infections;
8. sterilization procedures and processes, if applicable;
9. single use devices;
10. disinfecting procedures and processes; and
11. breaches of infection control practices.

C. Supplies shall not be reused if labeled for single use.

D. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures which require immediate reporting, according to the latest criteria established by the Centers for Disease Control (CDC), Office of Public Health (OPH) and the Occupational Safety and Health Administration (OSHA), of the suspected or confirmed diagnosis of a communicable disease.

E. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review a written waste management program that identifies and controls wastes and hazardous materials to prevent contamination and spread of infection within the facility. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials and the safe handling of these materials.

F. There shall be a separate sink for cleaning instruments and disposal of liquid waste.

G. The outpatient abortion facility shall develop, implement, and enforce/maintain written policies and procedures to ensure items are contained and handled during the sterilization process to assure sterility is not compromised prior to use.

H. After sterilization, instruments shall be stored in a designated clean area so that sterility is not compromised.

I. Sterile packages are inspected for integrity and compromised packages shall be reprocessed before use.

J. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures governing the following:

1. the handling, processing, storing, and transporting of clean and dirty laundry;
2. special cleaning and decontamination processes are employed for contaminated linens, if an in-house laundry is maintained on the licensed premises; and
3. housekeeping services maintain a safe and clean environment.

K. Housekeeping supplies shall be provided to adequately maintain the licensed premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4449. Laboratory Services

A. The outpatient abortion facility shall have laboratory services available to meet the needs of its patients.

B. The outpatient abortion facility shall maintain a clinical laboratory improvement amendment (CLIA) certificate for the laboratory services provided on the licensed premises.

C. The outpatient abortion facility shall ensure that all contracted laboratory services are provided by a CLIA certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4451. Pharmaceutical Services

A. All outpatient abortion facilities shall have a controlled dangerous substance (CDS) license issued by the Louisiana Board of Pharmacy and a Drug Enforcement Agency (DEA) registration.

B. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures that govern the safe storage, prescribing, dispensing, preparing and administering of drugs and biologicals on the licensed premises.

C. Storage Areas. The outpatient abortion facility shall provide a designated secure storage area for storing drugs and biologicals.

1. The designated storage area shall be constructed and maintained to prevent unauthorized access.
2. The designated storage area shall adhere to the manufacturer's suggested recommendations for storage of drugs.
3. Locked areas that are used to store medications, including controlled substances, shall conform to all applicable federal and state laws, and the outpatient abortion facility's policies and procedures.

D. The outpatient abortion facility shall maintain written records documenting the ordering, receiving, dispensing, administering, and disposing of unused drugs.

E. The outpatient abortion facility shall maintain written documentation of all drugs prescribed and/or dispensed to each patient, including, but not limited to the:

1. full name of the patient;
2. name of the prescribing and/or dispensing physician;
3. name and strength of the drug;
4. quantity prescribed and/or dispensed; and
5. date of issue.

F. Preparation and Administration of Drugs. The outpatient abortion facility shall develop, implement,

enforce, monitor, and review annually written policies and procedures governing the preparation of drugs and biologicals.

1. The outpatient abortion facility shall ensure that all drugs and biologicals are prepared and administered pursuant to an order from an individual who has prescriptive authority under the laws of Louisiana. Each order shall be in writing, patient specific, dated, timed, and signed by an individual with prescriptive authority under the laws of Louisiana. A copy of such orders shall be maintained in each individual patient medical record.

G. The outpatient abortion facility shall order and maintain a supply of emergency drugs for stabilizing and/or treating medical and surgical complications on the licensed premises as authorized by the medical director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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 or autonomy as described in R.S. 49:972 by ensuring that outpatient abortion facilities protect the health and safety of the patients receiving services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Abortion Facilities Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. It is anticipated that $8,200 (SGF) will be expended in FY 13-14 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 revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule, which continues the provisions of the November 20, 2013 Emergency Rule, proposes to repeal and replace the provisions governing the licensing of abortion facilities in compliance with Acts 259 and 260 of the 2013 Regular Session of the Louisiana Legislature, and to revise and clarify these provisions. It is anticipated that implementation of this proposed Rule will not have economic costs or benefits to abortion facilities for FY 13-14, FY 14-15, and FY 15-16 since the required licensing fees have not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Section Director	Staff Director
1312#073	Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Children's Choice
Allocation of Waiver Opportunities
(LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.11107 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 and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number

9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to extend the time period for the allocation of waiver opportunities in the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 37, Number 9).

The department promulgated an Emergency Rule which amended the provisions of the September 20, 2010 Emergency Rule in order to correct a formatting error within the Section (*Louisiana Register*, Volume 39, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2013 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

1. The only exceptions to the first come, first served allocation of waiver opportunities shall be for the:

a. Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only; and

b. waiver opportunities which are allocated to children who have been determined to need more services than what is currently available through state funded family support services.

c. Reserved.

B. …

1. – 1.b. Reserved.

C. Four hundred twenty-five opportunities shall be designated for qualifying children with developmental disabilities that have been identified by the Office for Citizens with Developmental Disabilities (OCDD) regional offices and human services authorities and districts as needing more family support services than what is currently available through state funded family support services.

1. To qualify for these waiver opportunities, children must:

a. be under 18 years of age;

b. be designated by the OCDD regional office, human services authority or district as meeting priority level 1 or 2 criteria;

c. be Medicaid eligible;

d. be eligible for state developmental disability services; and

e. meet the ICF/DD level of care.

2. Each OCDD regional office and human services authority or district shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria:

a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

i. the individual's medical care needs;

ii. documented abuse or neglect of the individual;

iii. the individual's intense or frequent challenging behavioral needs;

iv. death or inability of the caregiver to continue care due to their own age or health; or

v. the possibility that the individual may experience a health crisis leading to death, hospitalization or placement in a nursing facility.

b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of their independence or productivity.

3. Children who qualify for one of these waiver opportunities are not required to have a protected request date on the Developmental Disabilities Request for Services Registry.

4. Each OCDD regional office, human services authority and district shall have a specific number of these opportunities designated to them for allocation to waiver recipients.

5. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular OCDD regional office, human services authority or district for another opportunity to be offered.

6. Once all of these opportunities are filled, supports and services, based on the priority determination system, will be identified and addressed through other resources currently available for individuals with developmental disabilities.

D. Reserved.

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 35:1892 (September 2009), amended LR 40:

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 increasing access to critical family support services for children.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to Medicaid covered services which may reduce the financial burden on families.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is

responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services—Waivers Children's Choice—Allocation of Waiver Opportunities

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 state programmatic costs of $2,767,101 for FY 13-14, $2,834,042 for FY 14-15 and $2,834,789 for FY 15-16. It is anticipated that $574 ($287 SGF and $287 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

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 $4,703,273 for FY 13-14, $4,635,758 for FY 14-15 and $4,635,011 for FY 15-16. It is anticipated that $287 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the April 20, 2013 Emergency Rule which amended the provisions of the September 20, 2010 Emergency Rule governing the Children's Choice Waiver which provided for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria and needing more family support services than what is currently available through state-funded family support services (425 waiver recipients). It is anticipated that implementation of this proposed Rule will increase programmatic expenditures in the Children's Choice Waiver by approximately $7,469,800 for FY 13-14, $7,469,800 for FY 14-15 and $7,469,800 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed Rule will have no have effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1312#074

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Children's Choice
Money Follows the Person Rebalancing
Demonstration Extension
(LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.11107 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 and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9).

The allocation of opportunities for the Money Follows the Person Rebalancing Demonstration Program was scheduled to end September 30, 2011. Section 2403 of the Affordable Care Act of 2010 authorized an extension of the Money Follows the Person Rebalancing Demonstration Program until September 30, 2016. The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to extend the time period for the allocation of waiver opportunities in the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 37, Number 9). The department subsequently promulgated an Emergency Rule which amended the provisions of the September 20, 2010 Emergency Rule in order to correct a formatting error within the Section (*Louisiana Register*, Volume 39, Number 4).

This proposed Rule is being promulgated to continue the provisions of the September 20, 2011 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 9. Children's Choice
Chapter 111. General Provisions§11107. Allocation of Waiver Opportunities

A. - A.1.…

a. - c. Reserved.

B. ...

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2016.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2016, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2016, the opportunity will cease to exist.

C. - D. Reserved.

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 35:1892 (September 2009), amended LR 40:

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 increasing access to services to enable children to transition from institutional settings and maintain access to specialized services to meet their needs in a home and community-based setting.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to Medicaid covered services which may reduce the financial burden on families that have children who are transitioning out of institutional settings.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—Children's Choice—Money Follows the Person Rebalancing Demonstration Extension

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 state general fund programmatic savings of $2,495 for FY 13-14, $2,352 for FY 14-15 and $2,353 for FY 15-16. It is anticipated that $328 ($164 SGF and $164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

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 $4,357 for FY 13-14, $3,847 for FY 14-15 and $3,846 for FY 15-16. It is anticipated that $164 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 20, 2011 Emergency Rule which amended the provisions of the Children's Choice Waiver in order to extend the time period for the allocation of waiver opportunities in the Money Follows the Person Rebalancing Demonstration Program. It is anticipated that implementation of this proposed Rule will reduce program expenditures in the Children's Choice Waiver Program by approximately $7,180 for FY 13-14, $6,199 for FY 14-15 and $6,199 for FY 15-16.

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.

J. Ruth Kennedy
Medicaid Director
1312#075

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Small Rural Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.1125)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.1125 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*Louisiana Register*, Volume 35, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to small rural 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 (*Louisiana Register*, Volume 37, Number 11). This proposed Rule is being promulgated to continue the provisions of the October 20, 2011 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 11. Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§1125. Small Rural Hospitals

A. - D. ...

E. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments shall be issued to qualifying non-state acute care hospitals for inpatient 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-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 inpatient 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 inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient 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. 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 35:955 (May 2009), amended LR 40:

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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it will ensure sufficient provider participation in the Hospital Services Program.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will secure new federal funding to ensure sufficient provider participation which will increase access to Medicaid covered hospital services and may reduce the costs to families for health care services.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Inpatient Hospital Services Small Rural Hospitals Low Income and Needy Care Collaboration

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 state programmatic costs of $309,988 for FY 13-14, $326,873 for FY 14-15 and $336,767 for FY 15-16; however, the state match shall be funded through an intergovernmental transfer of funds from the qualifying hospitals to the department to secure the federal match to fund this program. It is anticipated that $328 ($164 SGF and $164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

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 $526,797 for FY 13-14, $534,678 for FY 14-15 and $550,630 for FY 15-16. It is anticipated that $164 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the October 20, 2011 Emergency Rule, amends the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to small rural 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. It is anticipated that implementation of this proposed Rule will increase program expenditures in the Hospital Services Program by approximately $836,457 for FY 13-14, $861,551 for FY 14-15 and $887,397 for FY 15-16.

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.

J. Ruth Kennedy
Medicaid Director
1312#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Small Rural Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.5311, 5511, 5711, 5911 and 6113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5311, 5511, 5711, 5911, and 6113 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.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for outpatient hospital services (*Louisiana Register*, Volume 35, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide for a supplemental Medicaid payment to small rural 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 (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the provisions of the October 20, 2011 Emergency Rule in order to clarify the qualifying criteria (*Louisiana Register*, Volume 37, Number 12). This proposed Rule continues the provisions of the December 20, 2011 Emergency Rule.

Title 50
PULIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services
Chapter 53. Outpatient Surgery
Subchapter B. Reimbursement Methodology
§5311. Small Rural Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying 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-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital—a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement—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. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5511. Small Rural Hospitals

A. - B. …

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient hospital 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-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital—a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement—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. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5711. Small Rural Hospitals

A. - B. …

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient 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-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital—a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement—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. Payments shall be distributed quarterly based on the Medicaid paid claims for services rendered during the quarter. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5911. Small Rural Hospitals

A. - B. …

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for outpatient 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-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital—a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement—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. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6113. Small Rural Hospitals

A. - B. …

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments will be issued to qualifying non-state hospitals for services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient facility fees 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-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

Non-State Hospital—a hospital which is owned or operated by a private entity.

Low Income and Needy Care Collaboration Agreement—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. Payments shall be distributed quarterly based on Medicaid paid claims for service dates from the previous state fiscal year. Payments to hospitals participating in the Medicaid DSH Program shall be limited to the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

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 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2151 (May 2012), LR 40:

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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it will ensure sufficient provider participation in the Hospital Services Program.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will secure new federal funding to ensure sufficient provider participation which will increase access to Medicaid covered hospital services and may reduce the costs to families for health care services.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Outpatient Hospital Services—Small Rural Hospitals—Low Income and Needy Care Collaboration

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 state programmatic costs of $1,667,251 for FY 13-14, $1,758,519 for FY 14-15 and $1,811,752 for FY 15-16. It is anticipated that $902 ($451 SGF and $451 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

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 $2,833,651 for FY 13-14, $2,876,481 for FY 14-15 and $2,962,298 for FY 15-16. It is anticipated that $451 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the December 20, 2011 Emergency Rule, amends the provisions governing the reimbursement methodology for outpatient hospital services to provide for a supplemental Medicaid payment to small rural 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. It is anticipated that implementation of this proposed Rule will increase program expenditures for outpatient hospital services by approximately $4,500,000 for FY 13-14, $4,635,000 for FY 14-15 and $4,774,050 for FY 15-16.

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.

J. Ruth Kennedy	Evan Brasseaux
Medicaid Director	Staff Director
1312#078	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
Supplemental Payments
(LAC 50:IX.15151 and 15153)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt §15151 and §15153 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 adopted provisions in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 36, Number 6). In addition, this Emergency Rule also repromulgated the provisions of the June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. The department determined that the Emergency Rule to redeclare these provisions was inadvertently omitted from the October 2012 submission to the Office of State Register for publication in the *Louisiana Register*. Therefore, the department promulgated an Emergency Rule governing the reimbursement methodology for professional services to assure compliance with the technical requirements of R.S. 49:953, and to re-instate the provisions of the July 1, 2010 Emergency Rule governing the Professional Services Program and supplemental payments for physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 39, Number 2). This proposed Rule is being promulgated to continue the provisions of the July 1, 2010 and February 20, 2013 Emergency Rules.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter F. Supplemental Payments
§15151. Qualifying Criteria—State-Owned or Operated Professional Services Practices

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:
   a. has been designated by the bureau as an essential provider; and
   b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The *community rate* is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid-paid claim data.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§15153. Qualifying Criteria—Non-State-Owned or Operated Professional Services Practices

A. Effective for dates of service on or after July 1, 2010, physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana; and
2. enrolled as a Louisiana Medicaid provider.

B. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of these provisions, the *community rate* shall be defined as the rates paid by commercial payers for the same service.

C. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH.

D. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined 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, Bureau of Health Services Financing, LR 40:

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.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Services Program Reimbursement Methodology—Supplemental Payments

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 increase in expenses to the state of $12,319,163 for FY 13-14, $12,996,747 for FY 14-15 and $13,390,178 for FY 15-16; however, the state match shall be funded through an intergovernmental transfer from public hospitals to the department to secure federal match to fund the supplemental payments. It is anticipated that $574 ($287 SGF and $287 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

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 $20,939,716 for FY 13-14, $21,259,307 for FY 14-15 and $21,893,558 for FY 15-16. It is anticipated that $287 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal

Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the July 1, 2010 and February 20, 2013 Emergency Rules, which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities. It is anticipated that implementation of this proposed rule will increase program expenditures in the professional services program by approximately $33,258,305 for FY 13-14, $34,256,054 for FY 14-15 and $35,283,736 for FY 15-16.

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.

J. Ruth Kennedy
Medicaid Director
1312#079

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Cost Reports and Specialized Care Reimbursement
(LAC 50:II.20003 and 20027)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20003 and to adopt LAC 50:II.20027 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 848 of the 2006 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing to adjust individual nursing facility rates quarterly based on the case-mix score for all patients of the nursing facility. Act 824 of the 2006 Regular Session of the Louisiana Legislature mandated that all nursing facilities have a supervised automatic fire sprinkler system and/or a two-hour rated wall and provided for the offset of costs associated with the installation of these systems in Medicaid-certified nursing facilities. In compliance with Acts 848 and 824, the department amended the provisions governing the reimbursement methodology for nursing facilities to allow for a quarterly adjustment of individual nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*, Volume 32, Number 12).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the December 20, 2006 Rule governing nursing facilities in order to redefine and clarify the provisions governing cost reports and the reimbursement methodology (*Louisiana Register*, Volume 39, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2014 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology

§20003. Cost Reports

A. - A.2. …

3. Separate cost reports must be submitted by central/home offices when costs of the central/home office are reported in the facility's cost report.

4. Repealed.

B. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), amended LR 28:1790 (August 2002), LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§20027. Specialized Care Reimbursement

A. A specialized care reimbursement rate shall consist of a nursing facility's Medicaid case-mix reimbursement rate plus an add-on amount. These rates can be established by the department for a specialized care unit.

B. Nursing Facility Specialized Care Unit Reimbursement

1. Effective with the January 1, 2014 rate period, infectious disease (ID) specialized care costs will no longer be reimbursed through a separate per diem add-on payment. ID costs and days will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter.

2. Effective with the January 1, 2014 rate period, technologically dependent care (TDC) costs and days will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter. TDC services will continue to be reimbursed through a separate per diem add-on payment. The department will be solely responsible for determining adjustments to the TDC per diem add-on payment.

3. Effective with the January 1, 2014 rate period, Neurological Rehabilitation Treatment Program (NRTP) costs and days for both rehabilitative and complex services will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation as described under §20005 of this Chapter. NRTP services will be reimbursed through a separate per diem add-on payment. The department will be solely responsible for determining adjustments to the NRTP per diem add-on payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Cost Reports and Specialized Care Reimbursement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. This will result in more efficient auditing of cost reports and may result in savings to the department in future years. It is anticipated that $492 ($246 SGF and $246 FED) will be expended in FY 13-14 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 revenue collections other than the federal share of the promulgation costs for FY 13-14. It is anticipated that $246 will be collected in FY 13-14 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 January 1, 2014 Emergency Rule, amends the provisions governing nursing facilities in order to redefine and clarify the provisions governing cost reports and the reimbursement methodology. This action is cost neutral and is only shifting the amounts within the rates and the add-ons that are currently paid but the final payment result will be the same as is currently paid. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to nursing facilities for FY 13-14, FY 14-15 and FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

J. Ruth Kennedy	Evan Brasseaux
Medicaid Director	Staff Director
1312#077	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

State Children's Health Insurance Program
Prenatal Care Services (LAC 50:III.20305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.20305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI 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 promulgated a Rule which adopted provisions to expand coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low-income, non-citizen women and to clarify the service limits and prior authorization criteria for SCHIP prenatal care services *(Louisiana Register,* Volume 35, Number 1).

Due to a continuing budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which repealed the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate the program (*Louisiana Register*, Volume 39, Number 1). The department has now determined that it is necessary to amend the provisions governing SCHIP prenatal care services (LaCHIP Phase IV) in order to remove any references to extended dental services for pregnant women since these services have been terminated.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 11. State Children's Health Insurance Program
Chapter 203. LaCHIP Phase IV—Prenatal Care Services

§20305. Services

A. Covered Services. Recipients shall receive coverage of pregnancy-related health care services and associated medically necessary services for conditions that, if not treated, would complicate the pregnancy. Pregnancy-related health care services which may be covered include:

1. - 11. …

12. case management services;

13. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;

14. medical transportation services; and

15. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

16. Repealed.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI 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 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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 as the provisions governing dental services for pregnant women were repealed in a prior Emergency Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as the provisions governing dental services for pregnant women were repealed in a prior Emergency Rule.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 29, 2014 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: State Children's Health Insurance Program, Prenatal Care Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. It is anticipated that $328 ($164 SGF and $164 FED) will be expended in FY 13-14 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 revenue collections. It is anticipated that $164 will be collected in FY 13-14 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing State Children's Health Insurance Program (SCHIP) prenatal care services in order to remove any references to extended dental services for pregnant women since those services were terminated in February 2013. It is anticipated that implementation of this proposed Rule will not have economic costs or benefits for FY 13-14, FY 14-15, and FY 15-16.

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.

J. Ruth Kennedy
Medicaid Director
1312#080

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Mobile Food Establishments
(LAC 51:XXIII.4513 and 4523)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(1)(a), R.S. 40:5, and R.S. 40:5.3, intends to amend and revise LAC Title 51 (Public Health—Sanitary Code), Part XXIII (Retail Food Establishments), by effecting changes as outlined below.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XXIII. Retail Food Establishments
Chapter 45. Mobile Food Establishments, Mobile Retail Food Stores/Markets and Pushcarts [formerly paragraph 22:34-3]

§4513. Issuance of Permits [formerly paragraph 23:126-1]

A. Any person desiring to operate a mobile food establishment, mobile retail food store/market or pushcart shall make written application for a permit on forms provided by the Office of Public Health. Such application shall include the name and address of each applicant, the day(s), time(s), and location(s) of operation, and type of the proposed mobile food establishment, mobile retail food store/market, or pushcart, and the signature of each applicant. When using a commissary or other fixed food establishment owned by a permit holder other than the mobile food establishment permit holder, the mobile food establishment shall provide a signed and dated agreement with the commissary or other fixed food establishment.

B. Upon re-application for a current permit to operate, the mobile food establishment owner shall provide a current agreement with the commissary or other fixed food establishment and any changes in day(s), time(s), and location(s) of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1430 (June 2002), LR 40:

§4523. Base of Operations/Commissary [formerly paragraphs 23:122, 23:123, 23:124]

A. Mobile food establishments, mobile retail food stores/markets and pushcarts shall operate from a commissary or other fixed food establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food establishments used as a base of operation for mobile food establishments, mobile retail food stores/markets, or pushcarts shall be constructed, permitted, and operated in compliance with the requirements of this Part.

C. Servicing Area

1. A servicing area shall be provided. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies.

2. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

3. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

4. The liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with §2901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1431 (June 2002), LR 40:

Family Impact Statement

1. The effect on the stability of the family. There will be no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. There will be no effect on the functioning of the family.

4. The effect on the family earnings and family budget. There will be no effect on the family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. There will be no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. There will be no effect on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development.

There will be no effect on childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development. There will be no effect on employment and workforce development.

4. The effect on taxes and tax credits. There will be no effect on taxes and tax credits

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. The proposed action includes revision of the state sanitary code to include explanation that a fee will be charged by state health officer for each retail food permit to operate. It is estimated that the proposed rulemaking is not expected to have a significant adverse impact on small businesses.

The Office of Public Health's Sanitarian Services Section does not expect that adoption of the proposed amendments will have a significant economic impact on small business entities.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, February 25, 2014, at COB, 4:30 p.m., and should be addressed to Silas Corkern, Retail Food Manager, Sanitarian Services, Office of Public Health,

Mail Bin # 10, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street - Room 167, Baton Rouge, LA 70802.

Public Hearing

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, February 25, 2014, in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez parking garage which is located between N. Sixth and N. Fifth/ North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, February 25, 2014, at COB, 4:30 p.m., and should be addressed to Silas Corkern, Retail Food Manager, Sanitarian Services, Office of Public Health, Mail Bin # 10, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7552. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street, Room 167, Baton Rouge, LA 70802.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Mobile Food Establishments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Office of Public Health (OPH) proposes to amend Title 51, Part XXIII of the Public Health Sanitary Code related to retail food establishments and mobile food units.

The first proposed change is to indicate that the Office of Public Health shall charge a fee for the issuance or renewal of each required permit in accordance with R.S. 40:31.37.

The second proposed change requires mobile food establishment operators to specify the day(s), time(s), and location(s) of operation in their application to the Office of Public Health. In addition, the proposed changes require the mobile food establishment to provide a signed and dated agreement with the commissary or other fixed food establishment when using a commissary or other fixed food establishment owned by a permit holder other than the mobile food establishment permit holder.

The proposed changes will result in an estimated cost of $328 to OPH to publish the notice of intent and final Rule in the *Louisiana Register*. OPH has sufficient funds to implement the proposed action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections of state or local governmental units anticipated as a result of promulgation of both Rule changes. Vendors already pay retail food permit fees annually. This proposed Rule just explicitly states that the Office of Public Health shall charge a fee for the issuance or renewal of each required permit as opposed to publishing the entire fee schedule in the Public Health Sanitary Code as done in the past.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no additional costs to non-governmental groups as a result of these proposed Rule changes. The second proposed Rule may result in some initial savings since under the proposed Rule, new mobile food vendors will not have to purchase overhead protection equipment as currently required under the existing Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Initial startup savings may allow mobile food establishment operators to expand their businesses by adding food products or mobile units.

J. T. Lane
Assistant Secretary
1312#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Shellstock Refrigeration
(LAC 51:IX.323, 329, and 333)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(1)(a), R.S. 40:5, and R.S. 40:5.3, intends to amend and revise LAC Title 51 (Public Health—Sanitary Code), Part IX (Marine and Fresh Water Animal Food Products), by effecting changes as outlined below. Besides the enhanced protection of public health afforded to the public by the adoption of this Rule, these amendments will also allow Louisiana-produced shellstock to continue to be placed in interstate commerce.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part IX. Marine and Fresh Water Animal Food Products
Chapter 3. Preparation and Handling of Seafood for Market

§323. Tags
[formerly paragraph 9:051]

A. - B.6. ...

* * *

C. The color of a tag placed on a container holding shellstock shall have the following meanings.

1. A white-colored tag indicates that the shellstock has met the time/temperature requirements of §329.A for raw (half shell) consumption in both interstate and intrastate commerce.

2. A fuchsia-colored (pinkish-purple) tag indicates that the shellstock has met the time/temperature requirements of §330.A for raw (half shell) consumption in intrastate commerce only (i.e., may be sold for raw consumption only by persons within the state of Louisiana).

3. A green-colored tag indicates that the shellstock is for shucking by a certified dealer or post-harvest processing only.

4. A blue-colored tag indicates that the shellstock has been post-harvest processed by a certified dealer and may now be sold for raw (half shell) consumption in both interstate and intrastate commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 28:1591 (July 2002), LR 33:850 (May 2007), LR 40:

§329. Refrigeration Requirements for Shellstock Harvested for Raw Consumption during the Months of January through December [formerly paragraph 9:052-1]

A. - A.3. …

B. For shellstock harvested for raw consumption, harvesters will adhere to the applicable time and temperature controls as established by the *Vibrio vulnificus* control plan in this Section developed by the Office of Public Health Molluscan Shellfish Program. The harvester must provide harvest records to the original shellfish dealer demonstrating compliance with the applicable time and temperature requirements. This record may be in the form of a harvester tag, trip record, or other record deemed appropriate by the Office of Public Health Molluscan Shellfish Program. The record must include the date and time harvest begins for each lot of shellfish harvested. The harvester shall document the time harvest begins for each lot prior to harvest and shall immediately document the time each lot is placed under refrigeration. The harvester shall properly attach a shellstock tag on all containers holding shellstock, with the corresponding lot identification, number or character printed legibly on the shellstock tag, prior to being placed under refrigeration. This tag shall be approved by the state health officer and the secretary of the Louisiana Department of Wildlife and Fisheries. It shall also be the responsibility of the harvester to record the number of sacks contained within each lot immediately after oysters are placed under refrigeration. Harvest vessels equipped with refrigeration capabilities must provide documentation to the original dealer that the time and temperature requirements established by the *Vibrio vulnificus* control plan developed by the Office of Public Health Molluscan Shellfish Program (see §329.A) have been met.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR 36:1016 (May 2010), LR 38:2789 (November 2012), LR 40:

§333. General Provisions [formerly paragraph 9:052-3]

A. …

B. If a harvester elects to fish shellstock intended for raw (half shell) consumption during the months of March-November, it shall be unlawful to possess shellstock intended for shucking, post-harvest processing, relaying or bedding until all shellstock harvested for raw (half shell) consumption are off-loaded dockside. However a harvester may fish shellstock for shucking and post-harvest processing at the same time when fishing shellstock for raw (half shell) consumption provided that the refrigeration and time/temperature requirements for raw (half shell) consumption are followed for the entire harvest (i.e., all harvested shellstock on board shall meet the time/temperature requirements of §329.A of this Part).

C. - H.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1), R.S. 40:5(2)(3)(5)(7)(15) (17)(19)(20)(21), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), amended LR 28:1592 (July 2002), repromulgated LR 29:173 (February 2003), amended LR 34:2176 (October 2008), LR 38:97 (January 2012), LR 40:

Family Impact Statement

1. The Effect on the Stability of the Family. There will be no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. It is expected that there will be a positive impact on the functioning of the family as it is anticipated that this action will reduce the incidence of disease for any family member who may choose to consume molluscan shellfish raw, i.e., on the half shell.

4. The Effect on the Family Earnings and Family Budget. It is expected that this action will help to protect the family's earnings and budget by prevention of the potential for a family member to become ill and thus the family would not have to pay for medical expenses which may be incurred for a family member that may become ill should this action not be adopted.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

1. The Effect on Household Income, Assets, and Financial Security. There will be no effect on household income, assets and financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. There will be no effect on childhood development and preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. There will be no effect on employment and workforce development.

4. The Effect on Taxes and Tax Credits. There will be no effect on taxes and tax credits

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been

considered. The proposed action includes revision of the state Sanitary Code to include the recommendations resulting from a recent evaluation of DHH, OPH's molluscan shellfish program which was conducted by a shellfish specialist with the United States Food and Drug Administration (USFDA). It is estimated that the proposed rulemaking is not expected to have a significant adverse impact on small businesses; however, failure to adopt the proposed Rule would likely lead to an adverse impact on small businesses because fishers and dealers of oysters and other mollusks would be unable to legally sell some of their harvest to out-of-state firms and individuals. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable USFDA recommendations while minimizing the adverse impact of the proposed Rule on small businesses.

The Office of Public Health's Sanitarian Services Section does not expect that adoption of the proposed amendments will have a significant economic impact on small business entities.

Public Comments

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, February 25, 2014, at COB, 4:30 p.m., and should be addressed to Gordon Leblanc, Sanitarian 7, Sanitarian Services-Molluscan Shellfish Program, Office of Public Health, mail bin #10, box 16, P.O. Box 4489, Baton Rouge, LA 70821-4489 or faxed to (225) 342-7607. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North Fourth Street, room 155, Baton Rouge, LA 70802.

Public Hearing

DHH, OPH will conduct a public hearing at 10 a.m. on Tuesday, February 25, 2014, in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between North Sixth and North Fifth and North and Main Streets. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Shellstock Refrigeration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule amends Title 51, Part IX, Marine and Fresh Water Animal Food Products, of the *Louisiana Administrative Code* to comply with the National Shellfish Sanitation Program Model Ordinance refrigeration requirements for shellstock.

The proposed Rule will result in an estimated one-time cost of $491 to publish the Notice of Intent and the final Rule in the *Louisiana Register*. The Office of Public Health (OPH) has sufficient funds to implement the proposed action. There is no impact anticipated by this proposed action on local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed Rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Shellstock harvesters will be directly affected by the proposed action. Harvesters will have to identify each lot of shellstock by harvesting tags prior to placing under refrigeration limiting the possibility of switching tags. As a result, these proposed Rule changes may result in additional records to be kept by the harvesters. However, since this activity is part of harvester's operations currently, the department anticipates the cost to be minimal. There could also be additional costs associated with fines and penalties imposed by the Louisiana Department of Wildlife and Fisheries for those individuals who harvest illegally.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Failure to adopt this proposed Rule could have a significant impact on employment in the private sector because it is anticipated that shellstock harvesters and dealers would be unable to continue to sell their raw product in interstate commerce.

J.T. Lane	Evan Brasseaux
Assistant Secretary	Staff Director
1312#052	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 66—Requirements for Officers, Directors, and Trustees of Domestic Regulated Entities
(LAC 37:XIII.Chapter 51)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the Department of Insurance proposes to amend Regulation 66. The purposes of the amendment are to update the requirements and applicability of Regulation 66 in light of legislation that has passed since the initial promulgation of Regulation 66, to clarify and enumerate items to be submitted pursuant to Regulation 66, and to enable officers, directors, and trustees of domestic regulated entities to address, resolve, and report potential conflicts of interest.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 51. Regulation 66—Requirements for Officers, Directors, and Trustees of Domestic Regulated Entities

§5101. Authority

A. Regulation 66 is promulgated pursuant to the authority vested in the commissioner under the Louisiana Insurance Code, R.S. 22:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:

§5103. Purpose
[Formerly §5101]

A. The purpose of Regulation 66 is to require that officers, directors and trustees of domestic regulated entities, as herein defined, file biographical and other applicable, relevant, and appropriate information with the commissioner for review and approval. The purpose of this review and approval is to determine and ensure that a domestic regulated entity continues to meet minimum standards with regard to its officers, directors, and trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:

§5105. Scope and Applicability

A. Regulation 66, as amended, shall apply to all individuals serving as an officer, director, or trustee of a domestic regulated entity and to all individuals nominated or otherwise suggested for such positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:

§5107. Definitions
[Formerly §5103]

A. For the purpose of Regulation 66, the following definitions shall be applicable.

Director—person(s) designated in the articles of incorporation, by-laws, or other organizational documents as such, and person(s) designated, elected, or appointed by any other name or title to act as *director*(s), and their successor(s).

Domestic Regulated Entity—any Louisiana domiciled entity which is required to obtain a license or certificate of authority from or register with the commissioner. This definition shall include, but is not limited to, all *domestic regulated entities* such as stock and mutual insurers, domestic captive insurers, mutual holding companies, non-profit funeral service associations, domestic service insurers, reciprocal insurers, Lloyd's plans, fraternal benefit societies, viatical settlement providers, viatical settlement investment agents, viatical settlement brokers, vehicle mechanical breakdown insurers, property residual value insurers, health maintenance organizations, risk indemnification trusts, third party administrators, interlocal risk management agencies, or any plan of self-insurance providing health and accident or workers compensation coverage to employees of two or more employers. This term shall not include motor vehicle rental insurers, insurance agencies, brokers, managing general agents, producers, reinsurance intermediary brokers, claims adjusters, public adjusters, or insurance producers acting as viatical settlement brokers pursuant to R.S. 22:1792(A)(1).

Officer—a president, vice-president, treasurer, secretary, controller, actuary, partner, and any other person who performs for the domestic regulated entity a part of the substantive functions corresponding to those performed by the foregoing *officers*. *Officer* shall also include the administrator of a plan of self-insurance providing health and accident or workers' compensation coverage to employees of two or more employers or a risk indemnification trust.

Trustee—the *trustee* of a trust, which provides health and accident or workers' compensation coverage to employees of two or more employers or of a risk indemnification trust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:

§5109. Review of Officers, Directors and Trustees by Commissioner Required
[Formerly §5105]

A. No person shall serve as an officer, director, or trustee of a domestic regulated entity who has not first submitted the information required by §5111 to the commissioner or to whom, after review of the information required by §5111, the commissioner has refused to issue a letter of no objection.

B. No domestic regulated entity may elect, appoint or otherwise accept as an officer, director, or trustee any individual who has failed to submit the information required by §5111 to the commissioner or to whom, after review of the information required by §5111, the commissioner has refused to issue a letter of no objection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:

§5111. Procedure for Requesting Letter of No Objection from Commissioner
[Formerly §5107]

A. Each person elected, appointed or who otherwise becomes an officer, director or trustee of a domestic regulated entity shall, within 30 days of being elected, appointed, or otherwise chosen, submit to the commissioner a request for a letter of no objection regarding his service in that capacity. The request shall be made by the domestic regulated entity, in writing, in a form approved by the commissioner.

B. Each request for a letter of no objection shall include:

1. a biographical affidavit;
2. a third party background verification;
3. fingerprints submitted by card or electronic means;
4. a statement from the domestic regulated entity indicating the position for which the individual has been elected, appointed, or otherwise chosen;
5. a sworn statement from the individual confirming that he has no conflict of interest which would interfere with his service in the position or confirmation from the domestic regulated entity that the individual has disclosed any

conflicts to that entity and that the entity has waived any such conflicts; and

6. a true copy of an acceptance of trust, an oath of office, or other such document signed by the individual. The form of these documents shall include a sworn statement that the individual agrees to abide by and direct the activities of the domestic regulated entity in compliance with all applicable provisions of the statutory and regulatory laws of Louisiana.

C. The commissioner may request additional information to determine the competence, experience, and integrity of the individual and to ensure that the individual will not jeopardize the policyholders, members of the domestic regulated entity, or of the public.

D. The fingerprint card and any criminal background information obtained pursuant to Regulation 66 shall be maintained by the fraud section of the department as confidential and shall not be subject to public disclosure pursuant to R.S. 22:1929.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:

§5113. Conditions for Refusal of Letter of No Objection [Formerly §5109]

A. The commissioner may refuse to issue a letter of no objection if he finds:

1. the competence, experience, and integrity of the individual are such that it would not be in the best interest of policyholders, members or clients of the domestic regulated entity, or of the public to allow the person to serve in the proposed position;

2. the individual has been convicted of, has pled guilty or *nolo contendere* to, or has participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude, public corruption, or a felony involving dishonesty or breach of trust;

3. the individual knowingly makes a materially false statement or omission of material information in the request for a letter of no objection;

4. any other reason now or hereinafter as applicable statutes and regulations may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:

§5115. Waiver of Submission of Biographical and Other Applicable, Relevant, and Appropriate Information [Formerly §5111]

A. The commissioner may waive the requirement that an individual submit a biographical affidavit, third party background verification, and fingerprint card under the following conditions:

1. the individual has served as an officer, director, or trustee of a domestic regulated entity for a period of five consecutive years; or

2. the individual has received a letter of no objection from the commissioner within one year of being elected, appointed, or otherwise chosen as an officer, director, or trustee, and the individual has attested to the fact that no material change has occurred in the biographical and other applicable, relevant, and appropriate information submitted in support of that request.

B. Individuals who qualify for a waiver of the submission of the biographical and other applicable, relevant, and appropriate information must submit a true copy of the conflict of interest statement required by §5111.B.5, and the acceptance of trust, oath of office, or other such document signed by the individual, witnessed, and notarized, as required by §5111.B.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:

§5117. Rescission of Letter of No Objection

A. The commissioner may rescind a letter of no objection if he finds that the individual submitted materially false information or omitted any material information in association with the request for a letter of no objection, or if subsequent events occur that cause the commissioner to question the competence, experience, and integrity of the individual, or if the individual has been convicted of, has pled guilty or *nolo contendere* to, or has participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude, public corruption, or a felony involving dishonesty or breach of trust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:

§5119. Effective Date

A. Regulation 66, as amended, shall become effective on April 1, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The

proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Public Comments

Interested persons may submit written comments on the proposed amendments to Regulation 66 until 5 p.m., Wednesday, January 29, 2014, to Chip Coulter, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed amendments to Regulation 66 will be held Wednesday, January 29, 2014, at 10 a.m. in the Poydras hearing room at the Louisiana Department of Insurance, 1702 North Third 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.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 66—Requirements for Officers, Directors, andTrustees of Domestic Regulated Entities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed changes to Regulation 66 with regard to requirements for officers, directors and trustees of domestic regulated entities. The purpose of the proposed amendment is to update the requirements and applicability of Regulation 66 in light of legislation that has passed since its initial promulgation and to ensure that a domestic regulated entity continues to meet minimum standards with regard to its officers, directors and trustees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment could minimally impact directly affected persons or non-governmental groups.

There are approximately 147 active domestic entities that would be subject to the proposed regulation. These entities will be required to provide a third party background verification for each person elected, appointed or who otherwise becomes an officer, director or trustee of a domestic regulated entity. The minimal costs of the third party background verification are approximately $230 to $270.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change should have no impact upon competition and employment in the state.

Denise Brignac
Deputy Commissioner
1312#050

John D.Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Filing Extensions for Partnerships Filing Composite Returns
(LAC 61:III.2505)

Under the authority of R.S. 47:1511, 1514, 201.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to enact LAC 61:III.2505, to mandate the electronic filing of a request for an extension to file composite return for nonresident partners or members.

The secretary of revenue is authorized, but not required, to grant a reasonable extension of time to file a composite return. Current law provides that the composite return be submitted electronically. Beginning with returns due on or after May 15, 2014, partnerships needing additional time to file a composite return must electronically submit a request for an extension of time to file on or before the return due date.

Title 61
REVENUE AND TAXATION
Part III. Administrative Provisions and Miscellaneous
Chapter 25. Returns
§2505. Filling Extensions for Partnerships filing Composite Returns

A. Revised Statute Title 47, Section 1514 provides that the secretary may grant a reasonable extension file any tax return due under this subtitle, not to exceed six months, from the date the return is due.

1. To obtain a filing extension for filing a composite return, partnerships must make the request on or before the tax return's due date.

2. A partnerships must request a state filing extension by submitting an electronic application.

3. An electronic application may be submitted via:

a. the Department of Revenue's web site at www.revenue.louisiana.gov/extensions;

b. tax preparation software; or

c. any other electronic method authorized by the secretary.

B. Filing extension does not extend time to pay tax.

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, income taxes due must be prepaid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1514.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 40:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed amendment will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested person may submit written data, views, arguments, or comments regarding this proposed Rule to the Policy Services Division by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 5 p.m., January 28, 2014.

Public Hearing

A public hearing will be held on January 29, 2014, at 11 a.m. in the river room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Filing Extensions for Partnerships Filing Composite Returns

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs of this Rule are approximately $18,000 for computer programming and design. Implementation costs are being absorbed in the existing budget. Local governmental units are not affected by this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposal requires that requests for extensions to file composite partnership tax returns be filed electronically. It has no effect on the amount of tax due or collected. This proposal should have no impact on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Partnerships that file composite partnership tax returns are affected by this proposal. It is not expected that these partnerships will experience any substantial costs or benefits from this proposal. The composite partnership tax returns are already required to be filed electronically. Partnerships with access to the internet will be able to file extension requests through LDR's website. Extension requests through tax preparation software will also be available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is expected as a result of this proposal.

Tim Barfield	Gregory V. Albrecht
Secretary	Chief Economist
1312#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

New Markets Jobs Act—Premium Tax Credit
(LAC 61:I.1912)

Under the authority of R.S. 47:6016.1 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., the Department of Revenue, Policy Services Division, proposes to enact LAC 61:I.1912.

Pursuant to Act 265 of the 2013 Regular Session, the department proposes to enact LAC 61:I.1912 regarding the Louisiana New Markets Jobs Act.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered By the Secretary of Revenue
Chapter19. Miscellaneous Tax Exemptions, Credits and Deductions
§1912. Louisiana New Markets Jobs Act—Premium Tax Credit

A. Premium Tax Credit

1. Revised Statute 47:6016.1 authorizes a state premium tax credit to any entity that makes a qualified equity investment. The entity or subsequent holder of the qualified equity investment shall be entitled to use a portion of the credit on each credit allowance date. The credit shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price or the amount paid for the qualified equity investment.

2. The applicable percent for the first and second credit allowance date is 14 percent. The applicable percentage for the third and fourth credit allowance date is 8.5 percent. The applicable percentage for the fifth, six and seventh credit allowance date is 0.0 percent.

3. The credit allowance date is the date the qualified equity investment is made and the six anniversaries of that date.

4. A qualified equity investment is an equity investment in a qualified community development entity made after August 1, 2013, which in turn is invested into a qualified active low income business within this state by the first anniversary of the initial credit allowance date.

5. A qualified community development entity and a qualified active low income community business are defined as provided in section 45D of the *Internal Revenue Code* of 1986 as amended or the federal new markets tax credit statute.

6. A qualified low income community investment is any capital or equity investment in, or loan to a qualified active low income community business. The maximum amount of qualified low income community investments that may be received by any qualified active low income community business or its affiliates shall not exceed $10,000,000. Any portion of an investment in a qualified active low income community business over $10,000,000 shall not be considered a qualified low income community investment for the purpose of R.S. 47:6016.1 and the portion of the associated investment into the qualified community development entity shall not be a qualified equity investment for the purpose of R.S. 47:6016.1.

7. The tax credit shall be applied against any state premium tax liability incurred under the provisions of R.S. 47: 22:831, 836, 838 and 842.

8. The amount of the credit shall not exceed the amount of state premium tax liability due in a taxable year. The credit may be carried forward for 10 years.

9. Credits issued to pass through entities may be allocated to the partners, members or shareholders as provided in their operating or special allocation agreements.

10. Credits may only be claimed on returns due on or after January 1, 2014.

B. Certification of the Qualified Equity Investment

1. A qualified community development entity that seeks to have an equity investment designated as a qualified equity investment must apply to the Department of Revenue on a form prescribed by the Department of Revenue and submit a $500,000 refundable guarantee deposit.

2. In addition to the application, the qualified community development entity must submit:

a. a letter from the United States Department of Treasury Community Development Financial Institutions Fund certifying the community development entity and its service area;

b. a copy of the allocation agreement issued from the Community Development Financial Institutions Fund;

c. a letter from an executive officer of the community development entity certifying that the allocation agreement from the Community Development Financial Institutions Fund is current;

d. a description of the proposed amount, structure and purchaser of the qualified equity investment;

e. identifying information for any entity that will earn the tax credits;

f. identifying information for any community businesses.

3. Upon request, the qualified community development entity shall submit:

a. a power of attorney designating a representative to be contacted regarding any issues with a pending application;

b. a power of attorney from the investor authorizing the Department of Revenue to disclose their tax credit information to the applicant;

c. certification that the qualified active low income community business and its affiliates will not receive more than $10,000,000 in qualified low income community investments under R.S. 47:6016.1;

d. special allocation agreements or operating agreements for investors who intend for the tax credits earned to flow through to their member or partners;

e. any other information requested necessary to ensure compliance with R.S. 47:6016.1.

4. Within 30 days of receipt of a completed application, that Department of Revenue shall grant or deny the application for designation of a qualified equity investment.

a. If the application is granted, a letter will be issued to the applicant informing them that their application has been granted. Following the grant letter, a second letter will be issued providing for the specific amount of allocation authority that is being granted to the applicant. Lastly, a separate tax credit certification will be issued to the applicant certifying the credit amount and credit allowance dates. A copy of the tax credit certification will also be submitted to the Department of Insurance.

b. If the application is denied, the department will inform the applicant of the grounds on which the application is being denied and allow 15 business days for the applicant to cure any defects.

c. Grounds for denials include, but are not limited to:

i. failure of applicant to submit the $500,000 deposit;

ii. failure of the applicant to submit any information included in the application;

iii. failure of the applicant to submit any additional information requested by the department which is necessary to ensure compliance.

d. If the applicant cures the defects, the application shall retain its original submission date. If the applicant cannot cure the defect, the application will remain denied and the Department of Revenue will refund the $500,000 deposit.

5. A qualified community development entity may transfer all or a portion of its designated qualified equity investment or allocation authority to its controlling entity or any other qualified community development entity included in the applicant's allocation agreement with the Community Development Financial Institutions Fund.

6. The $500,000 deposit will be refunded within thirty days of a request once the qualified community development entity certifies that the qualified equity investment has been made and the qualified low income community investment has been made within one year of the first anniversary date of the qualified equity investment.

a. If the applicant fails to certify receipt of the qualified equity investment within 30 days of the certification by the Department of Revenue, the applicant will forfeit the $500,000 deposit.

b. If the applicant fails to certify the qualified low income community investment within one year of the first anniversary and the six month cure period, the applicant will forfeit the $500,000 deposit.

c. A request for return of the deposit may not be made until 30 days after the requirements of Paragraph B.6 of this Section have been met.

7. The application for the designation of a qualified equity investment may be withdrawn by the applicant at any time prior to the granting of the application by the department. If the application is withdrawn, the deposit will also be refunded to the applicant within 30 days of the withdrawal.

C. Tax Credit Sales

1. Tax credits not previously claimed by a taxpayer against its premium tax may be sold to another Louisiana taxpayer.

2. The sale may involve one or more transferees.

3. Joint notice from the transferor and transferee shall be submitted to the Department of Insurance on a form prescribed by the Department of Insurance within 30 days of the sale.

4. Failure to submit the joint notice of transfer shall result in disallowance of the credit until the taxpayer is in full compliance.

5. The carry forward period is not extended by the sale of the credit to another Louisiana taxpayer.

6. To the extent that the transferor did not have rights to claim or use the credit at the time the credit is sold, the Department of Insurance shall either disallow or recapture the credit from the transferee.

7. Credits may not be claimed on returns that were due prior to January 1, 2014.

8. Credits may not be used to settle outstanding tax liabilities for tax periods beginning prior to January 1, 2014.

9. Transfers of ownership of credits through the sale of equity interest in an entity are a sale of the credit. Such transfers shall be treated in the same manner as selling the credits themselves and will require notice to the Department of Insurance in the same manner set forth above.

D. Recapture

1. The Department of Revenue will notify the Department of Insurance of a recapture event.

2. The Department of Insurance shall recapture the credit from the entity that claimed the credit on their return if:

a. any amount of the federal tax credit earned from the qualified equity investment is recaptured pursuant to section 45D of the *Internal Revenue Code*. The amount recaptured shall be in proportion to the federal recapture of the credit;

b. the qualified community development entity fails to invest 100 percent of the purchase price for the qualified equity investment into a qualified active low income community business within one year of initial credit allowance date and maintain this investment throughout the last credit allowance date or compliance period.

3. No recapture shall occur until the qualified community development entity has been given notice of noncompliance by the Department of Revenue and the benefit of six months to become compliant.

E. Reporting

1. Within 30 days of the applicant receiving certification for a qualified equity investment, the qualified community development entity must:

a. issue an investment and receive cash for the certified amount;

b. designate the amount as a federal qualified equity investment with the Community Development Financial Institutions Fund;

c. issue Form R-10607 to the investor designating the amount a state qualified equity investment.

2. Within five days of issuing the qualified equity investment, the qualified community development entity will submit:

a. evidence of receipt of cash.;

b. a copy of the federal Form 8874A which was issued to the investor;

c. a copy of the state Form R-10607 which was issued to the investor;

d. notice of any transfers of allocation authority as provided in Paragraph B.5.

3. If the requirements of Paragraph E.1 are not met within 30 days of certification of the qualified equity investment, the certification will lapse and the qualified community development entity will have to re-apply to the Department of Revenue for designation of the qualified equity investment.

4. A qualified community development entity that issues a qualified equity investment under R.S. 47:6016.1 shall submit a report to the Department of Revenue within the first five business days after the first anniversary date indicating that 100 percent of the qualified equity investment is invested in a qualified active low income community business in Louisiana.

a. The report shall include a bank statement of the qualified community development entity evidencing each qualified low income community investment.

b. The report shall include evidence that the qualified low income community business was and remains active.

c. The report shall include evidence of the total amount of qualified low income community investments received by the qualified active low income community business under the provisions of R.S. 47:6016.1.

5. A qualified community development entity that issues a qualified equity investment under 7:6016.1 shall issue an annual report within 45 days of the second compliance year. The report shall include:

a. a number of employment positions created and retained as a result of the qualified low income community investments and their average annual salaries;

b. evidence that the qualified active low income community business remains active; and

c. evidence that the qualified low income community investment remains invested in the qualified active low income community business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 40:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed amendment will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested person may submit written data, views, arguments, or comments regarding this proposed Rule to the Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 5 p.m., January 28, 2014.

Public Hearing

A public hearing will be held on January 29, 2014, at 10 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: New Markets Jobs Act Premium Tax Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs of this Rule are expected to be minimal. Implementation costs are being absorbed in the existing budgets of the Department of Revenue and the Department of Insurance. Local governmental units are not affected by this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule is being promulgated for the implementation of Act 265 of the 2013 Regular Legislative Session, which enacted R.S. 47:6016.1. This statute structures the issuance of $24.75 million of transferable tax credits in a single allocation on August 1, 2013, and provides that this issue can first be claimed against premium tax liabilities on tax returns due on or after January 1, 2014. The amount of tax credit that can be taken each year is also structured to be 14% of the capital invested in the program in both of the first and second years, and 8.5% in both of the third and fourth years. This proposal is expected to decrease revenue collections of the state by $20.075 million during fiscal years ending in 2014 through 2016. Thus, FY14 and FY15 are each exposed to $7.7 million of revenue loss (14% of $55 million of capital each year). FY 16 and FY 17 are each exposed to $4.675 million of revenue loss (8.5% of $55 million of capital each year). An additional $4.675 million decrease is expected in fiscal year ending 2017 (outside of the horizon of this impact statement). Total state revenue loss is expected to total $24.75 M over 4 years.

A $500,000 deposit is required with each application for the credit, which may be forfeited if the applicant fails to meet one of two requirements. This forfeiture is not expected to occur, since the potential loss of $500,000 should prevent the applicants from neglecting to meet all of the requirements.

This proposal should have no impact on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Qualified active low income community businesses are expected to benefit from loans or investments of a maximum of $10 million individually, and $55 million in total. Persons making qualified investments will benefit from the $24.75 million of tax credits that are expected to be earned.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment by qualified active low income community businesses that receive capital as a result of this program may increase by an unknown amount. To an unknown extent, competition may be affected between qualified active low income community businesses that receive capital as a result of this program and their competitors.

Tim Barfield	Greg V. Albrecht
Secretary	Chief Economist
1312#036	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Unemployment Insurance Administration

Waiver of Overpayment Recovery
and Electronic Filing (LAC 40:IV.369 and 377)

Editor's Note: This Notice of Intent is being repromulgated to include §369. The original Notice of Intent may be viewed on pages 3174-3175 of the November 20, 2013 *Louisiana Register*.

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to promulgate §§369 and 377.

The purpose of the amendment to §369 is to clarify the requirement to return the questionnaire prior to the hearing date. The purpose of §377 is to clarify the requirement to file quarterly reports electronically, as required by R.S. 23:1531.1, and to provide guidance as to acceptable payment methods and the posting of contribution payments.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Subpart 1. Board of Review
Chapter 3. Employment Security Law
§369. Waiver of Overpayment Recovery

A. Requirements for Waiver of Recovery of Overpayments

1. A waiver of the overpayment may be granted only if:

a. the claimant was without fault in causing the overpayment;

b. repayment would be against equity and good conscience; and

c. the claimant provided supporting documentation of his inability to pay in full or according to the repayment table in §371.

2. When a claimant appeals an overpayment determination, a written questionnaire shall be provided to claimant for an answer. The claimant shall return the completed questionnaire prior to the date of the hearing. If the claimant fails to return the completed questionnaire timely, then the waiver shall be denied.

3. In any proceedings, under this rule, the overpaid claimant shall have the burden of proving entitlement to a waiver.

B. Determination of Fault

1. To determine if fault existed on the part of the claimant, the factors considered shall include:

a. gave inaccurate information;

b. failed to disclose a material fact;

c. knew or should have known that he/she is not entitled to the benefits;

d. caused the overpayment by an act of omission of information known to the claimant; or

e. had a determination of ineligibility due to fraud.

2. An affirmative finding on any one of the above precludes waiver of the overpayment.

C. Equity and good conscience determination:

1. in determining whether recovery of the overpayment would be against equity and good conscience, the factors considered shall include:

a. financial and other information provided in response to the agency's request, which shall include information about:

i. all financial resources available to the claimant and members of the claimant's household;

ii. the claimant's living expenses including, but not by way of limitation, expenses for:

(a). food;
(b). clothing;
(c). rent;
(d). debt payment;
(e). obligations;
(f). accident and health insurance;
(g). medical care;
(h). taxes;
(i). work related transportation; and
(j). the support of others for whom the claimant is legally responsible; and

iii. any other factors that impact the claimant's ability to cover ordinary living expenses for at least six months;

2. whether the claimant was given notice that a reversal on appeal would result in an overpayment.

D. All notices of determination of overpayment shall include information regarding rights of appeal and waiver provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:1086 (December 1989), repromulgated LR 17:48 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2315 (August 2013), LR 40:

§377. Electronic Filing of Wage and Tax Reports Required; Payment of Unemployment Contributions by Electronic Funds Transfer, Paper Check, ACH, or Other Method Approved by the Executive Director

A. All employers must file quarterly, annual, and amended wage reports electronically for any reports due after January 31, 2014.

B. All employer's agents and professional employer organizations, as defined in R.S. 23:1761, must file quarterly, annual, and amended wage reports electronically for any employer's reports due after January 31, 2014.

C. Contributions must be paid by the following methods:

1. electronic funds transfer (EFT);
2. automated clearing house (ACH);
3. paper check; or
4. any other method of payment approved by the executive director.

D.1. If an employer, agent or professional employer organization elects to pay the contributions due by paper check, it must be accompanied by the appropriate voucher downloaded from the Workforce Commission's portal and mailed only to the address printed on the voucher. Payments made by paper check are not credited to the employer's account until the check is received.

2. The failure to mail the voucher and paper check to the address given on the voucher may result in the imposition of penalties and interest as authorized by R.S. 23:1543.

E. The electronic reporting requirement may be waived by the executive director only upon a showing by the employer, agent or professional employer organization that electronic reporting has created a hardship. All applications for a waiver must be in writing and submitted to the executive director, setting forth detailed reasons the requirement to file electronically creates a hardship.

1. The term *hardship* includes, without limitation:

a. a financial burden or expense which significantly impairs the employer's ability to continue to conduct its business;

b. electronic filing would impose a hardship due to a physical disability or geographic barrier;

c. the requirement to file electronically is contrary to equity or good conscience due to the specific circumstances of the employer requesting the waiver.

2. A request for a waiver must be in writing and must be delivered to the administrator after January 1, 2014, but before March 31, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance, LR 40:

Family Impact Statement

Implementation of the proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on any family formation, stability, and autonomy. The proposed Rule shall not have any impact on the six criteria set forth in R.S. 49:972(d).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

Public Comments

All interested parties are invited to submit views, arguments, information, or comments on the proposed rules to Director, Office of Unemployment Insurance Administration, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9040. Written comments must be submitted and received by the agency within 20 days from the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the agency within 20 days of the publication of this notice.

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing will be held on January 29, 2014, at 10 a.m. at the LWC Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Waiver of Overpayment Recovery and Electronic Filing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule enacts Louisiana Administrative Code (LAC) Title 40, Labor and Employment, Part IV, Part 3 Employment Security Law regarding electronic filing of wage and tax reports. In accordance with R.S. 23:1531.1, all employers must file wage reports electronically after January 31, 2014. The executive director may waive the electronic filing requirement if it creates a hardship on the employer.

Also, the proposed Rule amends Section 369 Waiver of Overpayment Recovery. The amendment clarifies that the person seeking a waiver of overpayment recovery must complete and return the financial questionnaire prior to the date of the hearing.

The Office of Unemployment Insurance Tax does not anticipate the implementation of the new and amended rules to have a fiscal impact for FY 13-14, FY 14-15, or FY 15-16. The only costs associated with this proposed Rule are administrative expenses necessary for the promulgation the Rule that is estimated at $328.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule is not anticipated to increase costs on persons directly affect or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is not anticipated to have an impact on competition and employment.

Curt Eysink	Gregory V. Albrecht
Executive Director	Chief Economist
1312#017	Legislative Fiscal Office

Potpourri

POTPOURRI

Office of the Governor
Coastal Protection and Restoration Authority

Public Hearings—State Fiscal Year 2015 Draft Annual Plan

Pursuant to R.S. 49:213.6, the Coastal Protection and Restoration Authority of Louisiana (CPRA), will hold the following public hearings to receive comments and recommendations from the public and from elected officials on Louisiana's draft "Fiscal Year 2015 Annual Plan: Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana."

A formal presentation and an opportunity for public comment on the Deepwater Horizon Draft Programmatic and Phase III Early Restoration Plan and Draft Programmatic Environmental Impact Statement will immediately follow the annual plan public hearing.

Jan. 14	5:30 p.m. Open House 6:00 pm Public Meeting	Belle Chasse Auditorium 8398 Louisiana 23 Belle Chasse, LA 70037
Jan. 15	5:30 p.m. Open House 6:00 p.m. Public Meeting	Warren J. Harang Jr. Municipal Auditorium Plantation Room 310 North Canal Boulevard Thibodaux, LA 70302
Jan. 16	5:30 p.m. Open House 6:00 p.m. Public Meeting	Spring Hill Suites Lake Charles Pelican Room 1551 West Prien Lake Road Lake Charles, LA 70601

The CPRA will receive written comments and recommendations on the draft annual plan until February 19, 2014. Written comments should be mailed (to arrive no later than February 19, 2014) to the following address:

Coastal Protection and Restoration Authority
c/o Chuck Perrodin
P.O. Box 44027
Baton Rouge, LA 70804-4027

If, because of a disability, you require special assistance to participate, please contact the CPRA Executive Assistant, at P.O. Box 44027, Baton Rouge, LA 70804-4027 or by telephone at (225) 342-7308, at least five working days prior to the hearing.

Please visit http://coastal.la.gov/ for more detailed information and copies of the draft annual plan which will be posted prior to the public meetings.

For questions regarding the meetings, please contact Chuck Perrodin at (225) 342-7615.

Garret Graves
Chairman

1312#041

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Office of the Governor
Office of Financial Institutions

Judicial Interest Rate Determination for 2014

R.S. 13:4202(B), as amended by Acts 2001, No. 841, and Acts 2012, No. 825, requires the Louisiana commissioner of financial institutions to determine the judicial interest rate for the calendar year following the calculation date. The commissioner has determined the judicial interest rate for the calendar year 2014 in accordance with R.S. 13:4202(B)(1).

The commissioner ascertained that on October 1, 2013, the first business day of the month of October, the approved discount rate of the Federal Reserve Board of Governors was three-quarters (.75) percent.

R.S. 13:4202(B)(1) mandates that on and after January 1, 2002, the judicial interest rate shall be three and one-quarter percentage points above the Federal Reserve Board of Governors approved discount rate on October 13, 2013. Thus, the effective judicial interest rate for the calendar year 2014 shall be four (4.0) percent per annum.

R.S. 13:4202(B)(2) provides that the publication of the commissioner's determination in the *Louisiana Register* "shall not be considered rulemaking within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953." Therefore, (1) a Fiscal Impact Statement, (2) a Family Impact Statement, and (3) a Notice of Intent are not required to be filed with the *Louisiana Register*.

John P. Ducrest, C.P.A.
Commissioner

1312#004

POTPOURRI

Department of Health and Hospitals
Board of Veterinary Medicine

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of

Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
April 14-April 26, 2014	Monday, January 3, 2014

The board will also accept applications for the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians which will be administered through the American Association of Veterinary State Boards (AAVSB), as follows.

Test Date	Deadline To Apply
March 15-April 15, 2014	February 15, 2014
July 15-August 15, 2014	June 15, 2014
November 15-December 15, 2014	October 15, 2014

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801, via telephone at (225) 342-2176, and by email at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of board member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2014. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Executive Director

1312#003

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Underwater Obstruction Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 7 claims in the amount of $33,977.21 were received for payment during the period November 1, 2013-November 30, 2013.

There were 7 paid and 0 denied.

Latitude/longitude coordinates, in degree decimal minutes, of reported underwater obstructions are:

29 02.263	90 28.767	Terrebonne;
29 05.777	90 53.983	Terrebonne;
29 08.479	90 29.271	Terrebonne;
29 18.416	89 46.978	Plaquemines;
29 52.101	90 14.473	Saint Charles.

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 you can call (225) 342-9388.

Stephen Chustz
Secretary

1312#045

POTPOURRI

Department of Public Safety and Corrections
Oil Spill Coordinator's Office

Deepwater Horizon—Oil Spill; Programmatic and Phase III Early Restoration Planning Document

Action: Notice of availability; request for comments.

Summary: In accordance with the Oil Pollution Act of 1990 (OPA), the Louisiana Oil Spill Prevention and Response Act (OSPRA), the National Environmental Policy Act (NEPA), and the framework agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (framework agreement), the federal and state natural resource damage assessment trustees (trustees) are preparing a restoration planning document proposing a programmatic early restoration approach, including a programmatic environmental impact analysis of early restoration alternatives, to restore natural resources, ecological services, and recreation use services injury or lost as a result of the *Deepwater Horizon* oil spill (hereinafter "the spill"). The document also proposes and evaluates a set of specific early restoration projects for implementation.

The purpose of this notice is to inform the public of the availability of this early restoration planning document, with an anticipated release date on or about December 6, 2013, as well as to seek public comments on the document. The Trustees have previously released to the public a draft phase I early restoration plan and environmental assessment, which was approved as final in February 2012, and a draft phase II early restoration plan and environmental review, which was approved as final in January 2013. These plans are available at: http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/.

This notice of availability also serves as notice that the trustees intend to use components of existing restoration projects, as further described in the document and required by 15 CFR 990.56(b)(3). In those instances, the projects were previously developed with public review and comment and are subject to current public review and comment, are adequate to partially compensate the environment and public as part of the trustees' ongoing early restoration efforts, address resources that have been identified by trustees as being injured by the spill, and are reasonably scalable for early restoration purposes.

Dates:

Comments Due Date*:* Public comments received on or before February 4, 2014 (or 60 days from the availability of the document) will be considered.

Public Meeting Dates*:* Public meetings will be held to facilitate public review and comment on the document (See below schedule). Both written and verbal public comments

will be taken at the meetings. Additional details regarding meeting information, including venues, will be published in local newspapers and will be posted on the web at http://losco-dwh.com/.

Date	Time	Location
Dec 16, 2013	6:00 p.m. Open House 6:30 p.m. Public Meeting	Mobile, AL
Dec 17, 2013	6:00 p.m. Open House 6:30 p.m. Public Meeting	Long Beach, MS
Jan 14, 2014	5:30 p.m. Open House 6:00 p.m. Public Meeting	Belle Chasse, LA[1]
Jan 15, 2014	5:30 p.m. Open House 6:00 p.m. Public Meeting	Thibodaux, LA[1]
Jan 16, 2014	5:30 p.m. Open House 6:00 p.m. Public Meeting	Lake Charles, LA[1]
Jan 21, 2014	6:00 p.m. Open House 6:30 p.m. Public Meeting	Port Arthur, TX
Jan 22, 2014	6:00 p.m. Open House 6:30 p.m. Public Meeting	Galveston, TX
Jan 23, 2014	6:00 p.m. Open House 6:30 p.m. Public Meeting	Corpus Christi, TX
Jan 28, 2014	6:00 p.m. Open House 6:30 p.m. Public Meeting	Pensacola, FL
Jan 29, 2014	6:00 p.m. Open House 6:30 p.m. Public Meeting	Panama City, FL

Addresses:

Obtaining the Document*:* You may download the document, once released, which is expected to be on or about December 6, 2013, at http://losco-dwh.com/. Please visit http://losco-dwh.com/ for updates on the availability of the document.

Alternatively, you may request a CD of the document (see For Further Information Contact). You may also review copies of the document at the public facilities listed at http://losco-dwh.com/.

Submitting Comments*:* You may submit comments by one of the methods listed in the document or any of the following:

via the web: http://losco-dwh.com/EarlyRestoration Planning.aspx or www.gullspill restoration.noaa.gov;

for electronic submission containing attachments, email: Karolien.Debusschere@la.gov;

U.S. mail: Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70806 or U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

For Further Information Contact: Karolien Debusschere at Karolien.Debusschere@la.gov

Supplementary Information:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252-MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seafloor. An unprecedented volume of oil and other discharges were released from the well into the Gulf of Mexico over a period of approximately three months. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to minimize impacts from spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the spill. Affected resources include ecologically, recreationally, and commercially important species and their habitats in the Gulf of Mexico and along the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

The trustees (listed below) are conducting the natural resource damage assessment for the spill under OPA, 33 U.S.C. §2701 et seq. Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time restoration is complete.

The trustees are:

United States Department of the Interior (DOI), as represented by the National Park Service, U.S Fish and Wildlife Service, and Bureau of Land Management;

National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce;

United States Department of Agriculture (USDA);

United States Environmental Protection Agency (EPA);

Louisiana Coastal Protection and Restoration Authority, Louisiana Oil Spill Coordinator's Office, Louisiana Department of Environmental Quality, Louisiana Department of Wildlife and Fisheries, and Louisiana Department of Natural Resources;

Mississippi Department of Environmental Quality;

Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;

Florida Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission; and

Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The United States Department of Defense (DOD) is a trustee but, to date has not become a signatory to the framework agreement.

Background

On April 20, 2011, BP agreed to provide up to $1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the Spill. This early restoration agreement, entitled "Framework for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill" (framework agreement), represents a preliminary step toward the restoration of injured natural resources. The framework agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The framework agreement provides a mechanism through which the trustees and BP can work together "to commence

implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable" prior to the completion of the natural resource damage assessment process or full resolution of the Trustees' natural resource damages claim.

In addition to the 10 projects previously proposed, approved, and finalized in phase I and phase II of early restoration, the trustees are proposing additional early restoration projects (phase III) in the document to address injuries from the spill. The trustees have actively solicited public input on restoration project ideas through a variety of mechanisms, including public meetings, electronic communication, and creation of a trustee-wide public website and database to share information and receive public project submissions. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is still underway. The projects proposed in these early restoration planning documents are not intended to, and do not fully, address all injuries caused by the Spill or provide the extent of restoration needed to make the public and environment whole.

Next Step:

As described above, public meetings will be scheduled to facilitate the public review and comment process. After the public comment period ends, the trustees will consider and address the comments received before issuing a final document. Upon finalization of the document, agreement with BP regarding these projects will be completed, and approved projects will then proceed to implementation, pending compliance with all applicable state and federal laws.

Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be publicly available at any time.

Administrative Record:

The documents comprising the administrative record can be viewed electronically at the following location: http://losco-dwh.com/AdminRecord.aspx.

Authority:

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. §2701 et seq.), the implementing natural resource damage assessment regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (R.S. §§30:2451-2496 (2010)), and the implementing natural resource damage assessment regulations found at La. Admin. Code 43:101 et seq.

[1]These meetings will be combined with the Louisiana Coastal Protection and Restoration Authority's Fiscal Year 2015 Draft Annual Plan Public Hearings.

Brian Wynne
Coordinator

1312#042

POTPOURRI

Workforce Commission
Office of Unemployment Insurance Administration

Public Hearing
(LAC 40:IV.317 and 375)

The Louisiana Workforce Commission, Office of Unemployment Insurance Administration published Notices of Intent to promulgate §§317 and 375 in the November 20, 2013, edition of the *Louisiana Register* (LR 39, No.11) pages 3175 and 3172, respectively. The notices incorrectly stated the date for the public hearing.

In order to correct this error, the Louisiana Workforce Commission Office of Unemployment Insurance Administration announces that in accordance with R.S. 49:968(H)(2), a public hearing on the proposed Rules will be held on December 30, 2013, at 10 a.m. at the LWC Training Center, 2155 Fuqua Street, Baton Rouge, LA 70802.

Curt Eysink
Executive Director

1312#018

POTPOURRI

Workforce Commission
Office of Workers' Compensation

Public Hearing—Medical Guidelines
(LAC 40:I.2003, 2015, 2103,
2119, 2203, 2217, 2303, and 2317)

The Louisiana Workforce Commission, Office of Workers' Compensation published a Notice of Intent to amend the Medical Treatment Schedule in the June 20, 2013 edition of the *Louisiana Register* (LR Vol. 39, No. 06). A public hearing was held pursuant to R.S. 49:953(A)(2) on July 25, 2013, and interested persons were invited to provide comment. After a thorough review and careful consideration of the received comments, the Louisiana Workforce Commission, Office of Workers' Compensation proposes the following substantive changes found in LAC 40:I:2003 A.9. and 14.; 2015 A. 9. and 14; 2103 A. 9. and 14; 2119 A. 9. and 14.; 2203 A. 9. and 14; 2217 A. 9. and 14.; 2303 A. 9. and 14.; 2317 A. 9. and 14. A public hearing pursuant to R.S. 49:968(H)(2) will be conducted January 27, 2014, at 9:00 AM.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 20. Spine Medical Treatment Guidelines
Subchapter A. Cervical Spine Injury
§2003. General Guideline Principles

A. - A.8. …..

9. Pharmacy-Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each

individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Chapter 20. Spine Medical Treatment Guidelines

Subchapter B. Low Back Pain

§2015. General Guideline Principles

A. - A.8. …

9. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR

Chapter 21. Pain Medical Treatment Guidelines

Subchapter A. Chronic Pain Disorder Medical Treatment Guidelines

§2103. General Guideline Principles

A. - A.8. …..

9. Pharmacy-Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Chapter 21. Pain Medical Treatment Guidelines

Subchapter B. Complex Regional Pain Syndrome

§2119. General Guideline Principles

A. - A.8. …..

9. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health & Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Chapter 22. Neurological and Neuromuscular Disorder Medical Treatment Guidelines

Subchapter A. Carpal Tunnel Syndrome (CTS) Medical Treatment Guidelines

§2203. General Guideline Principles

A. - A.8. …..

9. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Chapter 22. Neurological and Neuromuscular Disorder Medical Treatment Guidelines

Subchapter B. Thoracic Outlet Syndrome

§2217. General Guidelines Principles

A. - A.8. …

9. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for

Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Chapter 23. Upper and Lower Extremities Medical Treatment Guidelines

Subchapter A. Lower Extremities

§2303. General Guidelines Principles

A. - A.8. …

9. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Chapter 23. Upper and Lower Extremities Medical Treatment Guidelines

Subchapter B. Shoulder Injury Medical Treatment Guidelines

§2317. General Guideline Principles

A. - A.8. …

9. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health & Hospitals licensing and certification standards for Pain Management Clinics; Other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

10. - 13. …

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended LR 40:

Public Hearing

A public hearing will be held on January 27, 2014, at 9 am at the Louisiana Workforce Commission Training Center, 2155 Fuqua St., Baton Rouge, LA 70802.

Curt Eysink
Executive Director

1312#035

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