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Executive Orders

EXECUTIVE ORDER BJ 14-03

State of Emergency—Extension of Qualifying

WHEREAS, According to Louisiana Revised Statute 18:401.1, the governor may, upon issuance of an executive order declaring a state of emergency or impending emergency, suspend or delay any qualifying of candidates, early voting, or elections upon the certification of the secretary of state that a state of emergency exists;

WHEREAS, pursuant to Proclamation No. 17 BJ 2014, issued February 10, 2014, a state of emergency was declared for severe winter weather and is currently in effect;

WHEREAS, on February 12, 2014, pursuant to the provisions of R.S. 18:401.1(B), the Secretary of State certified to the Governor that as a result of severe weather conditions, a state of emergency exists in the parishes of Bienville, DeSoto, LaSalle, Ouachita, Richland, Union, and West Carroll, and he recommends that qualifying in those parishes be suspended on Wednesday, February 12, 2014 and to conduct qualifying from 8:30 a.m.to 4:30 p.m. on Thursday, February 13, 2014, Friday, February 14, 2014 and Tuesday, February 18, 2014;

WHEREAS, on February 12, 2014 pursuant to the provisions of 18:401.1(F), the Secretary of State certified to the Governor that as a result of severe weather conditions, a state of emergency exists in the parishes of Bienville, DeSoto, LaSalle, Ouachita, Richland, Union, and West Carroll, and he redesignates the deadline to file an action objecting to candidacy in La. R.S. 18:493 and 1405(A) as 4:30 p.m. on Tuesday, February 25, 2014 in the parishes of Bienville, DeSoto, LaSalle, Ouachita, Richland, Union, and West Carroll;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the February 12, 2014 certification from the Secretary of State that a state of emergency exists in the parishes of Bienville, DeSoto, LaSalle, Ouachita, Richland, Union, and West Carroll, and the February 12, 2014 recommendation that the qualifying period in these parishes be suspended on Wednesday, February 12, 2014 and to conduct qualifying from 8:30 a.m. to 4:30 p.m. on Thursday, February 13, 2014, Friday, February 14, 2014, and Tuesday, February 18, 2014, a state of emergency is hereby declared to exist in the following parishes and qualifying in the following parishes is hereby suspended for the time periods and dates designated:

Parish of Bienville, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

Parish of DeSoto, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

Parish of LaSalle, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

Parish of Ouachita, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

Parish of Richland, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

Parish of Union, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

Parish of West Carroll, suspended from 8:30 a.m. to 4:30 p.m. on Wednesday, February 12, 2014;

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, qualifying in the parishes of Bienville, DeSoto, LaSalle, Ouachita, Richland, Union, and West Carroll shall be rescheduled for/and or resume at 8:30 a.m. on Thursday, February 13, 2014 and conclude at 4:30 p.m. on Tuesday, February 18, 2014. Monday, February 17, 2014 is a legal holiday for the Clerks of Court who conduct qualifying in the parishes affected by this emergency.

SECTION 3: The Order is effective upon signature.

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 12th day of February, 2014.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1403#075

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Behavior Analyst Board

Application Procedures and Board Fees
(LAC 46:VIII.Chapter 3)

The Louisiana Department of Health and Hospitals, Louisiana Behavior Analyst Board has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S. 49:953(B)(1), to create rules relative to the practice of behavior analysis, to be designated as Chapter 3, Application Procedures and Board Fees, of the board rules. This Emergency Rule containing all new material, is effective February 13, 2014, and will remain in effect for a period of 120 days.

This action is necessary due to Act 351 of the 2013 Legislative Session, effective August 1, 2013, which created the Louisiana Behavior Analyst Board to safeguard life, health, property and the public welfare of this state, and in order to protect the people of this state against unauthorized, unqualified, and improper application of applied behavior analysis. Act 351 created a licensure process for behavior analysts, certification for assistant behavior analysts and requires registration of line technicians in the best interest of public protection. There is no grandfathering clause in Act 351 and individuals are practicing behavior analysis in the community, therefore there is insufficient time to promulgate these rules under the usual Administrative Procedure Act rulemaking process. However, a Notice of Intent to adopt a permanent Rule will be promulgated in connection with the proposed adoption of Emergency Rule on this subject.

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-R.S. 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-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, 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 American 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, Behavior Analyst Board, 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 American 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, Behavior Analyst Board, 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, Behavior Analyst Board, 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, Behavior Analyst Board, LR 40:

Kelly Parker
Executive Director

1403#001

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Adult Dentures Program
Reimbursement Rate Reduction
(LAC 50:XXV.701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXV.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 2).

Due to a budgetary shortfall in state fiscal year 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective March 31, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXV. Adult Dentures
Chapter 7. Reimbursement
§701. Fees

A. - C. …

D. Effective for dates of service on or after August 1, 2013, the reimbursement for adult denture services shall be reduced by 1.5 percent of the fee amounts on file as of July 31, 2013.

1. Removable prosthodontics shall be excluded from the August 1, 2013 reimbursement rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#049

DECLARATION OF EMERGENCY

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

Behavioral Health Services
Physician Payment Methodology
(LAC 50:XXXIII.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopt LAC 50:XXXIII.Chapter 17 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). This Emergency Rule is being promulgated to continue the provisions of the April 20, 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 April 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing 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. The reimbursement rates for physician services rendered under the Louisiana Behavioral Health Partnership (LBHP) 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. Effective for dates of service on or after April 20, 2013, the reimbursement for behavioral health services rendered by a physician under the LBHP shall be 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients.

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 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#050

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Crisis Receiving Centers
Licensing Standards
(LAC 48:I.Chapters 53 and 54)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 48:I.Chapters 53 and 54 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:2180.13. 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

to adopt provisions to establish licensing standards for Level III crisis receiving centers (CRCs) in order to provide intervention and crisis stabilization services for individuals who are experiencing a behavioral health crisis (*Louisiana Register*, Volume 39, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2013 Emergency Rule. This action is being taken to prevent imminent peril to the public health, safety or welfare of behavioral health clients who are in need of crisis stabilization services.

Effective April 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing licensing standards for Level III crisis receiving centers.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter53. Level III Crisis Receiving Centers

Subchapter A. General Provisions

§5301. Introduction

A. The purpose of this Chapter is to:

1. provide for the development, establishment, and enforcement of statewide licensing standards for the care of patients and clients in level III crisis receiving centers (CRCs);

2. ensure the maintenance of these standards; and

3. regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of clients of behavioral health facilities.

B. The purpose of a CRC is to provide intervention and stabilization services in order for the client to achieve stabilization and be discharged and referred to the lowest appropriate level of care that meets the client's needs. The estimated length of stay in a CRC is 3-7 days.

C. In addition to the requirements stated herein, all licensed CRCs shall comply with applicable local, state, and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5303. Definitions

Active Client—a client of the CRC who is currently receiving services from the CRC.

Administrative Procedure Act—R.S. 49:950 et seq.

Administrative Review—Health Standards Section's review of documentation submitted by the center in lieu of an on-site survey.

Adult—a person that is at least 18 years of age.

Authorized Licensed Prescriber—a physician or nurse practitioner licensed in the state of Louisiana and with full prescriptive authority authorized by the CRC to prescribe treatment to clients of the specific CRC at which he/she practices.

Building and Construction Guidelines—structural and design requirements applicable to a CRC; does not include occupancy requirements.

Coroner's Emergency Certificate (CEC)—a certificate issued by the coroner pursuant to R.S. 28:53.3.

Change of Ownership (CHOW)—the sale or transfer, whether by purchase, lease, gift or otherwise, of a CRC by a person/corporation of controlling interest that results in a *change of ownership* or control of 30 percent or greater of either the voting rights or assets of a CRC or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the CRC.

CLIA—clinical laboratory improvement amendment.

Client Record—a single complete record kept by the CRC which documents all treatment provided to the client. The record may be electronic, paper, magnetic material, film or other media.

Construction Documents—building plans and specifications.

Contraband—any object or property that is against the CRC's policies and procedures to possess.

Crisis Receiving Services—services related to the treatment of people in behavioral crisis, including crisis identification, intervention and stabilization.

Department—the Louisiana Department of Health and Hospitals.

Direct Care Staff—any member of the staff, including an employee or contractor, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance and clerical staff and volunteers are not considered as *direct care staff*.

Disaster or Emergency—a local, community-wide, regional or statewide event that may include, but is not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. declared health crisis.

Division of Administrative Law (DAL)—the Louisiana Department of State Civil Service, Division of Administrative Law or its successor entity.

Grievance—a formal or informal written or verbal complaint that is made to the CRC by a client or the client's family or representative regarding the client's care, abuse or neglect when the complaint is not resolved at the time of the complaint by staff present.

HSS—the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Care Integrity, Health Standards Section.

Human Services Field—an academic program with a curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines.

*Level III Crisis Receiving Center (*or *Center* or *CRC)*—an agency, business, institution, society, corporation, person or persons, or any other group, licensed by the Department of Health and Hospitals to provide crisis identification, intervention and stabilization services for people in behavioral crisis. A *CRC* shall be no more than 16 beds.

Licensed Mental Health Professional (LMHP)—an individual who is licensed in the state of Louisiana to diagnose and treat mental illness or substance abuse, acting within the scope of all applicable state laws and their

professional license. An *LMHP* must be one of the following individuals licensed to practice independently:

1. a physician/psychiatrist;
2. a medical psychologist;
3. a licensed psychologist;
4. a licensed clinical social worker (LCSW);
5. a licensed professional counselor (LPC);
6. a licensed marriage and family therapist (LMFT);
7. a licensed addiction counselor (LAC); or
8. an advanced practice registered nurse or APRN (must be a nurse practitioner specialist in adult psychiatric and mental health and family psychiatric and mental health, or a certified nurse specialist in psychosocial, gerontological psychiatric mental health, adult psychiatric and mental health and child-adolescent mental health and may practice to the extent that services are within the APRN's scope of practice).

LSBME—Louisiana State Board of Medical Examiners.

MHERE—mental health emergency room extension operating as a unit of a currently-licensed hospital.

Minor—a person under the age of 18.

OBH–the Department of Health and Hospitals, Office of Behavioral Health.

On Duty—scheduled, present, and awake at the site to perform job duties.

On Call—immediately available for telephone consultation and less than one hour from ability to be on duty.

OHSEP—Office of Homeland Security and Emergency Preparedness.

OPC—order for protective custody issued pursuant to R.S. 28:53.2.

OSFM—the Louisiana Department of Public Safety and Corrections, Office of State Fire Marshal.

PEC—an emergency certificate executed by a physician, psychiatric mental health nurse practitioner, or psychologist pursuant to R.S. 28:53.

Physician—an individual who holds a medical doctorate or a doctor of osteopathy from a medical college in good standing with the LSBME and a license, permit, certification, or registration issued by the LSBME to engage in the practice of medicine in the state of Louisiana.

Qualifying Experience—experience used to qualify for any position that is counted by using one year equals 12 months of full-time work.

Seclusion Room—a room that may be secured in which one client may be placed for a short period of time due to the client's increased need for security and protection.

Shelter in Place—when a center elects to stay in place rather than evacuate when located in the projected path of an approaching storm of tropical storm strength or a stronger storm.

Sleeping Area—a single constructed room or area that contains a minimum of three beds.

Tropical Storm Strength—a tropical cyclone in which the maximum sustained surface wind speed (using the U.S. 1 minute average standard) ranges from 34 kt (39 mph 17.5 m/s) to 63 kt (73 mph 32.5 mps).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter B. Licensing

§5309. General Licensing Provisions

A. All entities providing crisis receiving services shall be licensed by the Department of Health and Hospitals (DHH). It shall be unlawful to operate as a CRC without a license issued by the department. DHH is the only licensing authority for CRCs in Louisiana.

B. A CRC license authorizes the center to provide crisis receiving services.

C. The following entities are exempt from licensure under this Chapter:

1. community mental health centers;
2. hospitals;
3. nursing homes;
4. psychiatric rehabilitative treatment facilities;
5. school-based health centers;
6. therapeutic group homes;
7. HCBS agencies;
8. substance abuse/addictive disorder facilities;
9. mental health clinics;
10. center-based respites;
11. MHEREs;
12. individuals certified by OBH to provide crisis intervention services; and
13. federally-owned facilities.

D. A CRC license is not required for individual or group practice of LMHPs providing services under the auspices of their individual license(s).

E. A CRC license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the CRC to which it is issued and only for the geographic address of that CRC approved by DHH;
3. be valid for up to one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;
4. expire on the expiration date listed on the license, unless timely renewed by the CRC;
5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

F. In order for the CRC to be considered operational and retain licensed status, the following applicable operational requirements shall be met. The CRC shall:

1. be open and operating 24 hours per day, 7 days per week;
2. have the required staff on duty at all times to meet the needs of the clients; and
3. be able to screen and either admit or refer all potential clients at all times.

G. The licensed CRC shall abide by any state and federal law, rule, policy, procedure, manual or memorandum pertaining to crisis receiving centers.

H. The CRC shall permit designated representatives of the department, in the performance of their duties, to:

1. inspect all areas of the center's operations; and

2. conduct interviews with any staff member, client, or other person as necessary.

I. CRC Names

1. A CRC is prohibited from using:

a. the same name as another CRC;

b. a name that resembles the name of another center;

c. a name that may mislead the client or public into believing it is owned, endorsed, or operated by the state of Louisiana when it is not owned, endorsed, or operated by the state of Louisiana.

J. Plan Review

1. Any entity that intends to operate as a CRC, except one that is converting from a MHERE or an existing CRC, shall complete the plan review process and obtain approval for its construction documents for the following types of projects:

a. new construction;

b. any entity that intends to operate and be licensed as a CRC in a physical environment that is not currently licensed as a CRC; or

c. major alterations.

2. The CRC shall submit one complete set of construction documents with an application and review fee to the OSFM for review. Plan review submittal to the OSFM shall be in accordance with R.S. 40:1574, and the current *Louisiana Administrative Code (LAC)* provisions governing fire protection for buildings (LAC 55:V.Chapter 3 as of this promulgation), and the following criteria:

a. any change in the type of license shall require review for requirements applicable at the time of licensing change;

b. requirements applicable to occupancies, as defined by the most recently state-adopted edition of *National Fire Protection Association (NFPA) 101*, where services or treatment for four or more patients are provided;

c. requirements applicable to construction of business occupancies, as defined by the most recently state-adopted edition of NFPA 101; and

d. the specific requirements outlined in the physical environment requirements of this Chapter.

3. Construction Document Preparation

a. The CRC's construction documents shall be prepared by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

b. The CRC's construction documents shall be of an architectural or engineering nature and thoroughly illustrate an accurately drawn and dimensioned project that contains noted plans, details, schedules and specifications.

c. The CRC shall submit at least the following in the plan review process:

i. site plans;

ii. floor plan(s). These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;

iii. building elevations;

iv. room finish, door, and window schedules;

v. details pertaining to Americans with Disabilities Act (ADA) requirements; and

vi. specifications for materials.

4. Upon OSFM approval, the CRC shall submit the following to DHH:

a. the final construction documents approved by OSFM; and

b. OSFM's approval letter.

K. Waivers

1. The secretary of DHH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the state *Sanitary Code*.

2. In order to request a waiver, the CRC shall submit a written request to HSS that demonstrates:

a. how patient safety and quality of care offered is not comprised by the waiver;

b. the undue hardship imposed on the center if the waiver is not granted; and

c. the center's ability to completely fulfill all other requirements of service.

3. DHH will make a written determination of each waiver request.

4. Waivers are not transferable in an ownership change or geographic change of location, and are subject to review or revocation upon any change in circumstances related to the waiver.

5. DHH prohibits waivers for new construction.

L. A person or entity convicted of a felony or that has entered a guilty plea or a plea of nolo contendere to a felony is prohibited from being the CRC or owner, clinical supervisor or any managing employee of a CRC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5311. Initial Licensure Application Process

A. Any entity, organization or person interested in operating a crisis receiving center must submit a completed initial license application packet to the department for approval. Initial CRC licensure application packets are available from HSS.

B. A person/entity/organization applying for an initial license must submit a completed initial licensing application packet which shall include:

1. a completed CRC licensure application;

2. the non-refundable licensing fee as established by statute;

3. the approval letter of the architectural center plans for the CRC from OSFM, if the center must go through plan review;

4. the on-site inspection report with approval for occupancy by the OSFM, if applicable;

5. the health inspection report with approval of occupancy from the Office of Public Health (OPH);

6. a statewide criminal background check, including sex offender registry status, on all owners and managing employees;

7. except for governmental entities or organizations, proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $100,000;

b. general and professional liability insurance of at least $500,000; and

c. worker's compensation insurance;

8. an organizational chart and names, including position titles, of key administrative personnel and the governing body;

9. a legible floor sketch or drawing of the premises to be licensed;

10. a letter of intent indicating whether the center will serve minors or adults and the center's maximum number of beds;

11. if operated by a corporate entity, such as a corporation or an limited liability corporation (LLC), current proof of registration and status with the Louisiana Secretary of State's office;

12. a letter of recommendation from the OBH regional office or its designee; and

13. any other documentation or information required by the department for licensure.

C. If the initial licensing packet is incomplete, the applicant shall:

1. be notified of the missing information; and

2. be given 90 days from receipt of the notification to submit the additional requested information or the application will be closed.

D. Once the initial licensing application is approved by DHH, notification of such approval shall be forwarded to the applicant.

E. The applicant shall notify DHH of initial licensing survey readiness within the required 90 days of receipt of application approval. If an applicant fails to notify DHH of initial licensing survey readiness within 90 days, the application will be closed.

F. If an initial licensing application is closed, an applicant who is still interested in operating a CRC must submit a:

1. new initial licensing packet; and

2. non-refundable licensing fee.

G. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the CRC will be issued an initial license to operate.

H. An entity that intends to become a CRC is prohibited from providing crisis receiving services to clients during the initial application process and prior to obtaining a license, unless it qualifies as one of the following facilities:

1. a hospital-based CRC;

2. an MHERE;

3. an MHERE that has communicated its intent to become licensed as a CRC in collaboration with the department prior to February 28, 2013; or

4. a center-based respite.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5313. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial licensing survey shall be conducted on-site to ensure compliance with the licensing laws and standards.

B. If the initial licensing survey finds that the center is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the center.

C. In the event that the initial licensing survey finds that the center is noncompliant with any licensing laws or regulations, or any other required rules or regulations, that present a potential threat to the health, safety, or welfare of the clients, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the center is noncompliant with any licensing laws or regulations, or any other required rules or regulations, and the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients, the department:

1. may issue a provisional initial license for a period not to exceed six months; and

2. shall require the center to submit an acceptable plan of correction.

a. The department may conduct a follow-up survey following the initial licensing survey after receipt of an acceptable plan of correction to ensure correction of the deficiencies. If all deficiencies are corrected on the follow-up survey, a full license will be issued.

b. If the center fails to correct the deficiencies, the initial license may be denied.

E. The initial licensing survey of a CRC shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5315. Types of Licenses

A. The department has the authority to issue the following types of licenses:

1. Initial License

a. The department shall issue a full license to the CRC when the initial licensing survey indicates the center is compliant with:

i. all licensing laws and regulations;

ii. all other required statutes, laws, ordinances, rules, regulations; and

iii. fees.

b. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

2. Provisional Initial License

a. The department may issue a provisional initial license to the CRC when the initial licensing survey finds that the CRC is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients.

i. The center shall submit a plan of correction to the department for approval, and the center shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

ii. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license will be issued.

iii. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a client are cited, the provisional license will expire and the center shall be

required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fee.

3. Renewal License. The department may issue a renewal license to a licensed CRC that is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. Provisional License. The department may issue a provisional license to a licensed CRC for a period not to exceed six months.

a. A provisional license may be issued for the following reasons:

i. more than five deficiencies cited during any one survey;

ii. four or more validated complaints in a consecutive 12-month period;

iii. a deficiency resulting from placing a client at risk for serious harm or death;

iv. failure to correct deficiencies within 60 days of notification of such deficiencies, or at the time of a follow-up survey; or

v. failure to be in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

b. The department may extend the provisional license for an additional period not to exceed 90 days in order for the center to correct the deficiencies.

c. The center shall submit an acceptable plan of correction to DHH and correct all noncompliance or deficiencies prior to the expiration of the provisional license.

d. The department shall conduct a follow-up survey of the CRC, either on-site or by administrative review, prior to the expiration of the provisional license.

e. If the follow-up survey determines that the CRC has corrected the deficiencies and has maintained compliance during the period of the provisional license, the department may issue a license that will expire on the expiration date of the most recent renewal or initial license.

f. The provisional license shall expire if:

i. the center fails to correct the deficiencies by the follow-up survey; or

ii. the center is cited with new deficiencies at the follow-up survey indicating a risk to the health, safety, or welfare of a client.

g. If the provisional license expires, the center shall be required to begin the initial licensing process by submitting a:

i. new initial license application packet; and

ii. non-refundable fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5317. Changes in Licensee Information or Personnel

A. Within five days of the occurrence, the CRC shall report in writing to HSS the following changes to the:

1. CRC's entity name;
2. business name;
3. mailing address; or
4. telephone number.

B. Any change to the CRC's name or "doing business as" name requires a $25 nonrefundable fee for the issuance of an amended license with the new name.

C. A CRC shall report any change in the CRC's key administrative personnel within five days of the change.

1. Key administrative personnel include the:
   a. CRC manager;
   b. clinical director; and
   c. nurse manager.

2. The CRC's notice to the department shall include the incoming individual's:
   a. name;
   b. date of appointment to the position; and
   c. qualifications.

D. Change of Ownership (CHOW)

1. A CRC shall report a CHOW in writing to the department at least five days prior to the change. Within five days following the change, the new owner shall submit:
   a. the legal CHOW document;
   b. all documents required for a new license; and
   c. the applicable nonrefundable licensing fee.

2. A CRC that is under license revocation or denial or license renewal may not undergo a CHOW.

3. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

E. Change in Physical Address

1. A CRC that intends to change the physical address of its geographic location shall submit:
   a. a written notice to HSS of its intent to relocate;
   b. a plan review request;
   c. a new license application;
   d. a nonrefundable license fee; and
   e. any other information satisfying applicable licensing requirements.

2. In order to receive approval for the change of physical address, the CRC must:
   a. have a plan review approval;
   b. have approval from OSFM and OPH;
   c. have an approved license application packet;
   d. be in compliance with other applicable licensing requirements; and
   e. have an on-site licensing survey prior to relocation of the center.

3. Upon approval of the requirements for a change in physical address, the department shall issue a new license to the CRC.

F. Any request for a duplicate license shall be accompanied by a $25 fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5319. Renewal of License

A. A CRC license expires on the expiration date listed on the license, unless timely renewed by the CRC.

B. To renew a license, the CRC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet includes:

1. the license renewal application;
2. a current State Fire Marshal report;

3. a current OPH inspection report;

4. the non-refundable license renewal fee;

5. any other documentation required by the department; and

6. except for governmental entities or organizations, proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $100,000;

b. general and professional liability insurance of at least $500,000; and

c. worker's compensation insurance.

C. The department may perform an on-site survey and inspection of the center upon renewal.

D. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the CRC license upon the license's expiration.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the center.

F. If a licensed CRC has been issued a notice of license revocation or suspension, and the center's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

G. Voluntary Non-Renewal of a License

1. If a center fails to timely renew its license, the license:

a. expires on the license's expiration date; and

b. is considered a non-renewal and voluntarily surrendered.

2. There is no right to an administrative reconsideration or appeal from a voluntary surrender or non-renewal of the license.

3. If a center fails to timely renew its license, the center shall immediately cease providing services, unless the center is actively treating clients, in which case the center shall:

a. within two days of the untimely renewal, provide written notice to HSS of the number of clients receiving treatment at the center;

b. within two days of the untimely renewal, provide written notice to each active client's prescribing physician and to every client, or, if applicable, the client's parent or legal guardian, of the following:

i. voluntary non-renewal of license;

ii. date of closure; and

iii. plans for the transition of the client;

c. discharge and transition each client in accordance with this Chapter within 15 days of the license's expiration date; and

d. notify HSS of the location where records will be stored and the name, address, and phone number of the person responsible for the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5321. Licensing Surveys

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing crisis receiving centers and to ensure client health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. If deficiencies are cited, the department may require the center to submit an acceptable plan of correction.

C. The department may conduct a follow-up survey following any survey in which deficiencies were cited to ensure correction of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5323. Complaint Surveys

A. Pursuant to R.S. 40:2009.13 et seq., the department has the authority to conduct unannounced complaint surveys on crisis receiving centers.

B. The department shall issue a statement of deficiency to the center if it finds a deficiency during the complaint survey.

C. Plan of Correction

1. Once the department issues a statement of deficiencies, the department may require the center to submit an acceptable plan of correction.

2. If the department determines that other action, such as license revocation, is appropriate, the center:

a. may not be required to submit a plan of correction; and

b. will be notified of such action.

D. Follow up surveys

1. The department may conduct a follow-up survey following a complaint survey in which deficiencies were cited to ensure correction of the deficient practices.

2. If the department determines that other action, such as license revocation, is appropriate:

a. a follow-up survey is not necessary; and

b. the center will be notified of such action.

E. Informal Reconsiderations of Complaint Surveys

1. A center that is cited with deficiencies found during a complaint survey has the right to request an informal reconsideration of the deficiencies. The center's written request for an informal reconsideration must be received by HSS within 10 calendar days of the center's receipt of the statement of deficiencies.

2. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as a desk review.

3. Correction of the violation or deficiency shall not be the basis for the reconsideration.

4. The center shall be notified in writing of the results of the informal reconsideration.

5. Except for the right to an administrative appeal provided in R.S. 40:2009.16, the informal reconsideration shall constitute final action by the department regarding the complaint survey, and there shall be no further right to an administrative appeal.

F. Administrative Appeals

1. To request an administrative appeal, the Division of Administrative Law must receive the center's written request for an appeal within 30 calendar days of the receipt of the results of the administrative reconsideration.

2. The administrative law judge is:

a. limited to determining whether the survey was conducted properly or improperly; and

b. precluded from overturning, deleting, amending or adding deficiencies or violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5325. Statement of Deficiencies

A. The CRC shall make any statement of deficiencies available to the public upon request after the center submits a plan of correction that is accepted by the department or 90 days after the statement of deficiencies is issued to the center, whichever occurs first.

B. Informal Reconsiderations

1. Unless otherwise provided in statute or in this Chapter, a CRC has the right to an informal reconsideration of any deficiencies cited as a result of a survey.

2. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

3. The center's written request for informal reconsideration must be received by HSS within 10 days of the center's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the administrative reconsideration.

5. HSS shall notify the center in writing of the results of the informal reconsideration.

6. Except as provided pursuant to R.S. 40:2009.13 et seq., and as provided in this Chapter:

a. the informal reconsideration decision is the final administrative decision regarding the deficiencies; and

b. there is no right to an administrative appeal of such deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5327. Cessation of Business

A. A CRC that intends to cease operations shall:

1. provide 30 days advance written notice to HSS and the active client, or if applicable, the client's parent(s), legal guardian, or designated representative;

2. discharge and transition all clients in accordance with this Chapter; and

3. provide 30 days advance written notice to DHH and the clients of the location where the records will be stored, including the name, address and phone number of the person responsible for the records.

B. A CRC that ceases operations as a result of a final revocation, denial or suspension shall notify HSS within 10 days of closure of the location where the records will be stored and the name, address and phone number of the person responsible for the records.

C. If a CRC fails to follow these procedures, the department may prohibit the owners, managers, officers, directors, and/or administrators from opening, managing, directing, operating, or owning a CRC for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5329. Sanctions

A. The department may issue sanctions for deficiencies and violations of law, rules and regulations that include:

1. civil fines;

2. directed plans of correction; and

3. license revocation or denial of license renewal.

B. The department may deny an application for an initial license or a license renewal, or may revoke a license in accordance with the Administrative Procedure Act.

C. The department may deny an initial license, revoke a license or deny a license renewal for any of the following reasons, including but not limited to:

1. failure to be in compliance with the CRC licensing laws, rules and regulations;

2. failure to be in compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. cruelty or indifference to the welfare of the clients;

5. misappropriation or conversion of the property of the clients;

6. permitting, aiding or abetting the unlawful, illicit or unauthorized use of drugs or alcohol within the center of a program;

7. documented information of past or present conduct or practices of an employee or other staff which are detrimental to the welfare of the clients, including but not limited to:

a. illegal activities; or

b. coercion or falsification of records;

8. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. mental or physical abuse, neglect, exploitation or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

9. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in subsection D.8 above;

10. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical records, client records or center records;

d. matters under investigation by the department or the Office of the Attorney General; or

e. information submitted for reimbursement from any payment source;

11. knowingly making a false statement or providing false, forged or altered information or documentation to DHH employees or to law enforcement agencies;

12. the use of false, fraudulent or misleading advertising; or

13. the CRC, an owner, officer, member, manager, administrator, Medical Director, managing employee, or

clinical supervisor has pled guilty or nolo contendere to a felony, or is convicted of a felony, as documented by a certified copy of the record of the court;

14. failure to comply with all reporting requirements in a timely manner, as required by the department;

15. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview center staff or clients;

16. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;

17. failure to allow or refusal to allow access to center or client records by authorized departmental personnel;

18. bribery, harassment, intimidation or solicitation of any client designed to cause that client to use or retain the services of any particular CRC;

19. cessation of business or non-operational status;

20. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

21. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department; or

22. failure to uphold client rights that may have resulted or may result in harm, injury or death of a client.

D. If the department determines that the health and safety of a client or the community may be at risk, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The department will provide written notification to the center if the imposition of the action will be immediate.

E. Any owner, officer, member, manager, director or administrator of such CRC is prohibited from owning, managing, directing or operating another CRC for a period of two years from the date of the final disposition of any of the following:

1. license revocation;

2. denial of license renewal, except when due to cessation of business; or

3. the license is surrendered in lieu of adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5331. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. The department shall provide written notice to the CRC of the following:

1. license denial;

2. license revocation; or

3. license non-renewal or denial of license renewal.

B. The CRC has the right to an administrative reconsideration of the license denial, license revocation or license non-renewal.

1. If the CRC chooses to request an administrative reconsideration, the request must:

a. be in writing addressed to HSS;

b. be received by HSS within 10 days of the center's receipt of the notice of the license denial, license revocation or license non-renewal; and

c. include any documentation that demonstrates that the determination was made in error.

2. If a timely request for an administrative reconsideration is received, HSS shall provide the center with written notification of the date of the administrative reconsideration.

3. The center may appear in person at the administrative reconsideration and may be represented by counsel.

4. HSS shall not consider correction of a deficiency or violation as a basis for the reconsideration.

5. The center will be notified in writing of the results of the administrative reconsideration.

C. The administrative reconsideration process is not in lieu of the administrative appeals process.

D. The CRC has a right to an administrative appeal of the license denial, license revocation or license non-renewal.

1. If the CRC chooses to request an administrative appeal, the request must:

a. be received by the DAL within 30 days of:

i. the receipt of the results of the administrative reconsideration; or

ii. the receipt of the notice of the license denial, revocation or non-renewal, if the CRC chose to forego its rights to an administrative reconsideration;

b. be in writing;

c. include any documentation that demonstrates that the determination was made in error; and

d. include the basis and specific reasons for the appeal.

2. The DAL shall not consider correction of a violation or a deficiency as a basis for the administrative appeal.

E. Administrative Appeals of License Revocations and License Non-Renewals

1. If a timely request for an administrative appeal is received by the DAL, the center will be allowed to continue to operate and provide services until the DAL issues a final administrative decision.

F. Administrative Appeals of Immediate License Revocations or License Non-Renewals

1. If DHH imposes an immediate license revocation or license non-renewal, DHH may enforce the revocation or non-renewal during the appeal process.

2. If DHH chooses to enforce the revocation or non-renewal during the appeal process, the center will not be allowed to operate and/or provide services during the appeal process.

G. If a licensed CRC has a pending license revocation, and the center's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

H. Administrative Hearings of License Denials, Non-Renewals and Revocations

1. If a timely administrative appeal is submitted by the center, the DAL shall conduct the hearing within 90 days of the docketing of the administrative appeal. The DAL may grant one extension, not to exceed 90 days, if good cause is shown.

2. If the final DAL decision is to reverse the license denial, license non-renewal or license revocation, the center's license will be re-instated upon the payment of any outstanding fees or sanctions fees due to the department.

3. If the final DAL decision is to affirm the license non-renewal or license revocation, the center shall:

a. discharge and transition any and all clients receiving services according to the provisions of this Chapter; and

b. comply with the requirements governing cessation of business in this Chapter.

I. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new CRC, or the issuance of a provisional license to a licensed CRC.

J. Administrative Reconsiderations and Administrative Appeals of the Expiration of a Provisional Initial License or Provisional License

1. A CRC with a provisional initial license, or a provisional license that expires due to deficiencies cited at the follow-up survey, has the right to request an administrative reconsideration and/or an administrative appeal.

2. The center's request for an administrative reconsideration must:

a. be in writing;

b. be received by the HSS within five days of receipt of the notice of the results of the follow-up survey from the department; and

c. include the basis and specific reasons for the administrative reconsideration.

3. Correction of a violation or deficiency after the follow-up survey will not be considered as the basis for the administrative reconsideration or for the administrative appeal.

4. The issue to be decided in the administrative reconsideration and the administrative appeal is whether the deficiencies were properly cited at the follow-up survey.

5. The CRC's request for an administrative appeal must:

a. be in writing;

b. be submitted to the DAL within 15 days of receipt of the notice of the results of the follow-up survey from the department; and

c. include the basis and specific reasons for the appeal.

6. A center with a provisional initial license or a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge or transition clients unless the DAL or successor entity issues a stay of the expiration.

a. To request a stay, the center must submit its written application to the DAL at the time the administrative appeal is filed.

b. The DAL shall hold a contradictory hearing on the stay application. If the center shows that there is no potential harm to the center's clients, then the DAL shall grant the stay.

7. Administrative Hearing

a. If the CRC submits a timely request for an administrative hearing, the DAL shall conduct the hearing within 90 days of docketing the administrative appeal. The DAL may grant one extension, not to exceed 90 days, if good cause is shown.

b. If the final DAL decision is to remove all deficiencies, the department will reinstate the center's license upon the payment of any outstanding fees and settlement of any outstanding sanctions due to the department.

c. If the final DAL decision is to uphold the deficiencies and affirm the expiration of the provisional license, the center shall discharge any and all clients receiving services in accordance with the provisions of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter C. Organization and Administration

§5337. General Provisions

A. Purpose and Organizational Structure. The CRC shall develop and implement a statement maintained by the center that clearly defines the purpose of the CRC. The statement shall include:

1. the program philosophy;

2. the program goals and objectives;

3. the ages, sex and characteristics of clients accepted for care;

4. the geographical area served;

5. the types of services provided;

6. the admission criteria;

7. the needs, problems, situations or patterns addressed by the provider's program; and

8. an organizational chart of the provider which clearly delineates the lines of authority.

B. The CRC shall provide supervision and services that:

1. conform to the department's rules and regulations;

2. meet the needs of the client as identified and addressed in the client's treatment plan;

3. protect each client's rights; and

4. promote the social, physical and mental well-being of clients.

C. The CRC shall maintain any information or documentation related to compliance with this Chapter and shall make such information or documentation available to the department.

D. Required Reporting. The center shall report the following incidents in writing to HSS within 24 hours of discovery:

1. any disaster or emergency or other unexpected event that causes significant disruption to program operations;

2. any death or serious injury of a client:

a. that may potentially be related to program activities; or

b. who at the time of his/her death or serious injury was an active client of the center; and

3. allegations of client abuse, neglect and exploitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5339. Governing Body

A. A crisis receiving center shall have the following:

1. an identifiable governing body with responsibility for and authority over the policies and operations of the center;

2. documents identifying the governing body's:

a. members;

b. contact information for each member;

c. terms of membership;

d. officers; and

e. terms of office for each officer.

B. The governing body of a CRC shall:

1. be comprised of one or more persons;

2. hold formal meetings at least twice a year;

3. maintain written minutes of all formal meetings of the governing body; and

4. maintain by-laws specifying frequency of meetings and quorum requirements.

C. The responsibilities of a CRC's governing body include, but are not limited to:

1. ensuring the center's compliance with all federal, state, local and municipal laws and regulations as applicable;

2. maintaining funding and fiscal resources to ensure the provision of services and compliance with this Chapter;

3. reviewing and approving the center's annual budget;

4. designating qualified persons to act as CRC manager, clinical director and nurse manager, and delegating these persons the authority to manage the center;

5. at least once a year, formulating and reviewing, in consultation with the CRC manager, clinical director and nurse manager, written policies concerning:

a. the provider's philosophy and goals;

b. current services;

c. personnel practices and job descriptions; and

d. fiscal management;

6. evaluating the performances of the CRC manager, clinical director and nurse manager at least once a year;

7. meeting with designated representatives of the department whenever required to do so;

8. informing the department, or its designee, prior to initiating any substantial changes in the services provided by the center; and

9. ensuring statewide criminal background checks are conducted as required in this Chapter and state law.

D. A governing body shall ensure that the CRC maintains the following documents:

1. minutes of formal meetings and by-laws of the governing body;

2. documentation of the center's authority to operate under state law;

3. all leases, contracts and purchases-of-service agreements to which the center is a party;

4. insurance policies;

5. annual operating budgets;

6. a master list of all the community resources used by the center;

7. documentation of ownership of the center;

8. documentation of all accidents, incidents, abuse/neglect allegations; and

9. a daily census log of clients receiving services.

E. The governing body of a CRC shall ensure the following with regards to contract agreements to provide services for the center.

1. The agreement for services is in writing.

2. Every written agreement is reviewed at least once a year.

3. The deliverables are being provided as per the agreement.

4. The center retains full responsibility for all services provided by the agreement.

5. All services provided by the agreement shall:

a. meet the requirements of all laws, rules and regulations applicable to a CRC; and

b. be provided only by qualified providers and personnel in accordance with this Chapter.

6. If the agreement is for the provision of direct care services, the written agreement specifies the party responsible for screening, orientation, ongoing training and development of and supervision of the personnel providing services pursuant to the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5341. Policies and Procedures

A. Each CRC shall develop, implement and comply with center-specific written policies and procedures governing all requirements of this chapter, including the following areas:

1. protection of the health, safety, and wellbeing of each client;

2. providing treatment in order for clients to achieve optimal stabilization;

3. access to care that is medically necessary;

4. uniform screening for patient placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;

5. operational capability and compliance;

6. delivery of services that are cost-effective and in conformity with current standards of practice;

7. confidentiality and security of client records and files;

8. prohibition of illegal or coercive inducement, solicitation and kickbacks;

9. client rights;

10. grievance process;

11. emergency preparedness;

12. abuse and neglect;

13. incidents and accidents, including medical emergencies;

14. universal precautions;

15. documentation of services;

16. admission, including descriptions of screening and assessment procedures;

17. transfer and discharge procedures;

18. behavior management;

19. infection control;

20. transportation;

21. quality assurance;

22. medical and nursing services;

23. emergency care;

24. photography and video of clients; and

25. contraband.

B. A center shall develop, implement and comply with written personnel policies in the following areas:

1. recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff including volunteers;

2. written job descriptions for each staff position, including volunteers;

3. conducting staff health assessments that are consistent with OPH guidelines and indicate whether, when and how staff have a health assessment;

4. an employee grievance procedure;

5. abuse reporting procedures that require:

a. staff to report any allegations of abuse or mistreatment of clients pursuant to state and federal law; and

b. staff to report any allegations of abuse, neglect, exploitation or misappropriation of a client to DHH;

6. a non-discrimination policy;

7. a policy that requires all employees to report any signs or symptoms of a communicable disease or personal illness to their supervisor, CRC manager or clinical director as soon as possible to prevent the spread of disease or illness to other individuals;

8. procedures to ensure that only qualified personnel are providing care within the scope of the center's services;

9. policies governing staff conduct and procedures for reporting violations of laws, rules, and professional and ethical codes of conduct;

10. policies governing staff organization that pertain to the center's purpose, setting and location;

11. procedures to ensure that the staff's credentials are verified, legal and from accredited institutions; and

12. obtaining criminal background checks.

C. A CRC shall comply with all federal and state laws, rules and regulations in the implementation of its policies and procedures.

D. Center Rules

1. A CRC shall:

a. have a clearly written list of rules governing client conduct in the center;

b. provide a copy of the center's rules to all clients and, where appropriate, the client's parent(s) or legal guardian(s) upon admission; and

c. post the rules in an accessible location in the center.

E. The facility shall develop, implement and comply with policies and procedures that:

1. give consideration to the client's chronological and developmental age, diagnosis, and severity of illness when assigning a sleeping area or bedroom;

2. ensure that each client has his/her own bed; and

3. prohibit mobile homes from being used as client sleeping areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter D. Provider Operations

§5347. Client Records

A. The CRC shall ensure:

1. a single client record is maintained for each client according to current professional standards;

2. policies and procedures regarding confidentiality of records, maintenance, safeguarding and storage of records are developed, implemented and followed;

3. safeguards are in place to prevent unauthorized access, loss, and destruction of client records;

4. when electronic health records are used, the most up to date technologies and practices are used to prevent unauthorized access;

5. records are kept confidential according to federal and state laws and regulations;

6. records are maintained at the center where the client is currently active and for six months after discharge;

7. six months post-discharge, records may be transferred to a centralized location for maintenance;

8. client records are directly and readily accessible to the clinical staff caring for the client;

9. a system of identification and filing is maintained to facilitate the prompt location of the client's record;

10. all record entries are dated, legible and authenticated by the staff person providing the treatment, as appropriate to the media;

11. records are disposed of in a manner that protects client confidentiality;

12. a procedure for modifying a client record in accordance with accepted standards of practice is developed, implemented and followed;

13. an employee is designated as responsible for the client records;

14. disclosures are made in accordance with applicable state and federal laws and regulations; and

15. client records are maintained at least 6 years from discharge.

B. Record Contents. The center shall ensure that client records, at a minimum, contain the following:

1. the treatment provided to the client;

2. the client's response to the treatment;

3. other information, including:

a. all screenings and assessments;

b. provisional diagnoses;

c. referral information;

d. client information/data such as name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;

e. documentation of incidents that occurred;

f. attendance/participation in services/activities;

g. treatment plan that includes the initial treatment plan plus any updates or revisions;

h. lab work (diagnostic laboratory and other pertinent information, when indicated);

i. documentation of the services received prior to admission to the CRC as available;

j. consent forms;

k. physicians' orders;

l. records of all medicines administered, including medication types, dosages, frequency of administration, the individual who administered each dose and response to medication given on an as needed basis;

m. discharge summary;

n. other pertinent information related to client as appropriate; and

4. legible progress notes that are documented in accordance with professional standards of practice and:

a. document implementation of the treatment plan and results;

b. document the client's level of participation; and

c. are completed upon delivery of services by the direct care staff to document progress toward stated treatment plan goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5349. Client Funds and Possessions

A. The CRC shall:

1. maintain and safeguard all possessions, including money, brought to the center by clients;

2. maintain an inventory of each client's possessions from the date of admission; and

3. return all possessions to the client upon the client's discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5351. Quality Improvement Plan

A. A CRC shall have a quality improvement (QI) plan that:

1. assures that the overall function of the center is in compliance with federal, state, and local laws;

2. is meeting the needs of the citizens of the area;

3. is attaining the goals and objectives established in the center's mission statement;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual outcomes and individual satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QI plan shall include:

1. a sample review of client case records on a quarterly basis to ensure that:

a. individual treatment plans are up to date;

b. records are accurate, complete and current; and

c. the treatment plans have been developed and implemented as ordered;

2. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients that includes, but is not limited to:

a. review and resolution of grievances;

b. incidents resulting in harm to client or elopement;

c. allegations of abuse, neglect and exploitation; and

d. seclusion and restraint;

3. a process to correct problems identified and track improvements; and

4. a process of improvement to identify or trigger further opportunities for improvement.

C. The QI plan shall establish and implement an internal evaluation procedure to:

1. collect necessary data to formulate a plan; and

2. hold quarterly staff committee meetings comprised of at least three staff members, one of whom is the CRC manager, nurse manager or clinical director, who evaluate the QI process and activities on an ongoing basis.

D. The CRC shall maintain documentation of the most recent 12 months of the QI activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter E. Personnel

§5357. General Requirements

A. The CRC shall maintain an organized professional staff who is accountable to the governing body for the overall responsibility of:

1. the quality of all clinical care provided to clients;

2. the ethical conduct and professional practices of its members;

3. compliance with policies and procedures approved by the governing body; and

4. the documented staff organization that pertains to the center's setting and location.

B. The direct care staff of a CRC shall:

1. have the appropriate qualifications to provide the services required by its clients' treatment plans; and

2. not practice beyond the scope of his/her license, certification or training.

C. The CRC shall ensure that:

1. qualified direct care staff members are present with the clients as necessary to ensure the health, safety and well-being of clients;

2. staff coverage is maintained in consideration of:

a. acuity of the clients being serviced;

b. the time of day;

c. the size, location, physical environment and nature of the center;

d. the ages and needs of the clients; and

e. ensuring the continual safety, protection, direct care and supervision of clients;

3. all direct care staff have current certification in cardiopulmonary resuscitation; and

4. applicable staffing requirements in this Chapter are maintained.

D. Criminal Background Checks

1. For any CRC that is treating minors, the center shall obtain a criminal background check on all staff. The background check must be conducted within 90 days prior to hire or employment in the manner required by RS 15:587.1.

2. For any CRC that is treating adults, the center shall obtain a statewide criminal background check on all unlicensed direct care staff by an agency authorized by the Office of State Police to conduct criminal background checks. The background check must be conducted within 90 days prior to hire or employment.

3. A CRC that hires a contractor to perform work which does not involve any contact with clients is not required to conduct a criminal background check on the contractor if accompanied at all times by a staff person when clients are present in the center.

E. The CRC shall review the Louisiana state nurse aide registry and the Louisiana direct service worker registry to ensure that each unlicensed direct care staff member does not have a negative finding on either registry.

F. Prohibitions

1. The center providing services to minors is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a person who supervises minors or provides direct care to minors who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony involving:

i. violence, abuse or neglect against a person;

ii. possession, sale, or distribution of illegal drugs;

iii. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

iv. misappropriation of property belonging to another person; or

v. a crime of violence.

b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

2. The center providing services to adults is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony involving:

i. abuse or neglect of a person;

ii. possession, sale, or distribution of a controlled dangerous substance:

(a). within the last five years; or

(b). when the employee/contractor is under the supervision of the Louisiana Department of Public Safety and Corrections, the U.S. Department of Probation and Parole or the U.S. Department of Justice;

iii. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

iv. misappropriation of property belonging to another person;

(a). within the last five years; or

(b). when the employee is under the supervision of the Louisiana Department of Public Safety and Corrections, the U.S. Department of Probation and Parole or the U.S. Department of Justice; or

v. a crime of violence.

b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

G. Orientation and In-Service Training

1. All staff shall receive orientation prior to providing services and/or working in the center.

2. All direct care staff shall receive orientation, at least 40 hours of which is in crisis services and intervention training.

3. All direct care staff and other appropriate personnel shall receive in-service training at least once a year, at least twelve hours of which is in crisis services and intervention training.

4. All staff shall receive in-service training according to center policy at least once a year and as deemed necessary depending on the needs of the clients.

5. The content of the orientation and in-service training shall include the following:

a. confidentiality;

b. grievance process;

c. fire and disaster plans;

d. emergency medical procedures;

e. organizational structure and reporting relationships;

f. program philosophy;

g. personnel policies and procedures;

h. detecting and mandatory reporting of client abuse, neglect or misappropriation;

i. an overview of mental health and substance abuse, including an overview of behavioral health settings and levels of care;

j. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

k. side effects and adverse reactions commonly caused by psychotropic medications;

l. basic skills required to meet the health needs and challenges of the client;

m. components of a crisis cycle;

n. recognizing the signs of anxiety and escalating behavior;

o. crisis intervention and the use of non-physical intervention skills, such as de-escalation, mediation conflict resolution, active listening and verbal and observational methods to prevent emergency safety situations;

p. therapeutic communication;

q. client's rights;

r. duties and responsibilities of each employee;

s. standards of conduct required by the center including professional boundaries;

t. information on the disease process and expected behaviors of clients;

u. levels of observation;

v. maintaining a clean, healthy and safe environment and a safe and therapeutic milieu;

w. infectious diseases and universal precautions;

x. overview of the Louisiana licensing standards for crisis receiving centers;

y. basic emergency care for accidents and emergencies until emergency medical personnel can arrive at center; and

z. regulations, standards and policies related to seclusion and restraint, including the safe application of physical and mechanical restraints and physical assessment of the restrained client.

6. The in-services shall serve as a refresher for subjects covered in orientation.

7. The orientation and in-service training shall:

a. be provided only by staff who are qualified by education, training, and experience;

b. include training exercises in which direct care staff members successfully demonstrate in practice the techniques they have learned for managing the delivery of patient care services; and

c. require the direct care staff member to demonstrate competency before providing services to clients.

I. Staff Evaluation

1. The center shall complete an annual performance evaluation of all employees.

2. The center's performance evaluation procedures for employees who provide direct care to clients shall address the quality and nature of the employee's relationships with clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5359. Personnel Qualifications and Responsibilities

A. A CRC shall have the following minimum staff:

1. a CRC manager who:

a. has a minimum of a master's degree in a human services field or is a licensed registered nurse;

b. has at least one year of qualifying experience in the field of behavioral health;

c. is a full time employee; and

d. has the following assigned responsibilities:

i. supervise and manage the day to day operation of the CRC;

ii. review reports of all accidents/incidents occurring on the premises and identify hazards to the clinical director;

iii. participate in the development of new programs and modifications;

iv. perform programmatic duties and/or make clinical decisions only within the scope of his/her licensure; and

v. shall not have other job responsibilities that impede the ability to maintain the administration and operation of the CRC.

2. a clinical director who is:

a. a physician licensed in the state of Louisiana with expertise in managing psychiatric and medical conditions in accordance with the LSBME; or

b. a psychiatric and mental health nurse practitioner who has an unrestricted license and prescriptive authority and a licensed physician on call at all times to be available for consultation;

c. responsible for developing and implementing policies and procedures and oversees clinical services and treatment;

d. on duty as needed and on call and available at all times;

3. a nurse manager who:

a. holds a current unrestricted license as a registered nurse (RN) in the state of Louisiana;

b. shall be a full time employee;

c. has been a RN for a minimum of five years;

d. has three years of qualifying experience providing direct care to patients with behavioral health diagnoses and at least one year qualifying experience providing direct care to medical/surgical inpatients;

e. has the following responsibilities:

i. develop and ensure implementation of nursing policies and procedures;

ii. provide oversight of nursing staff and the services they provide;

iii. ensure that any other job responsibilities will not impede the ability to provide oversight of nursing services.

4. authorized licensed prescriber who:

a. shall be either:

i. a physician licensed in the state of Louisiana with expertise in managing psychiatric and medical conditions in accordance with the LSBME; or

ii. a psychiatric and mental health nurse practitioner who has an unrestricted license and prescriptive authority and a licensed physician on call at all times to be available for consultation;

b. is on call at all times;

c. is responsible for managing the psychiatric and medical care of the clients;

5. licensed mental health professionals (LMHPs):

a. the center shall maintain a sufficient number of LMHPs to meet the needs of its clients.

b. there shall be at least one LMHP on duty during hours of operation.

c. the LMHP shall have one year of qualifying experience in direct care to clients with behavioral health diagnoses and shall have the following responsibilities:

i. provide direct care to clients and may serve as primary counselor to specified caseload;

ii. serve as a resource person for other professionals and unlicensed personnel in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities, and discharge planning; and

iv. function as the client's advocate in all treatment decisions.

6. nurses:

a. the center shall maintain licensed nursing staff to meet the needs of its clients.

b. all nurses shall have:

i. a current nursing license from the state of Louisiana;

ii. at least one year qualifying experience in providing direct care to clients with a behavioral health diagnosis; and

iii. at least one year qualifying experience providing direct care to medical/surgical inpatients.

c. the nursing staff has the following responsibilities:

i. provide nursing services in accordance with accepted standards of practice, the CRC policies and the individual treatment plans of the clients;

ii. supervise non-licensed clinical personnel;

iii. each CRC shall have at least one RN on duty at the CRC during hours of operation; and

iv. as part of orientation, all nurses shall receive 24 hours of education focusing on psychotropic medications, their side effects and possible adverse reactions.

All nurses shall receive training in psychopharmacology for at least four hours per year.

B. Optional Staff

1. The CRC shall maintain non-licensed clinical staff as needed who shall:

a. be at least 18 years of age;

b. have a high school diploma or GED;

c. provide services in accordance with CRC policies, documented education, training and experience, and the individual treatment plans of the clients; and

d. be supervised by the nursing staff.

2. Volunteers

a. The CRC that utilizes volunteers shall ensure that each volunteer:

i. meets the requirements of non-licensed clinical staff;

ii. is screened and supervised to protect clients and staff;

iii. is oriented to facility, job duties, and other pertinent information;

iv. is trained to meet requirements of duties assigned;

v. is given a written job description or written agreement;

vi. is identified as a volunteer;

vii. is trained in privacy measures; and

viii. is required to sign a written confidentiality agreement.

b. The facility shall designate a volunteer coordinator who:

i. has the experience and training to supervise the volunteers and their activities; and

ii. is responsible for selecting, evaluating and supervising the volunteers and their activities.

3. If a CRC utilizes student interns, it shall ensure that each student intern:

a. has current registration with the appropriate Louisiana board when required or educational institution, and is in good standing at all times;

b. provides direct client care utilizing the standards developed by the professional board;

c. provides care only under the direct supervision of an individual authorized in accordance with acceptable standards of practice; and

d. provides only those services for which the student has been properly trained and deemed competent to perform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5361. Personnel Records

A. A CRC shall maintain a personnel file for each employee and direct care staff member in the center. Each record shall contain:

1. the application for employment and/or resume, including contact information and employment history for the preceding five years, if applicable;

2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;

3. any required medical examinations or health screens;

4. evidence of current applicable professional credentials/certifications according to state law or regulations;

5. annual performance evaluations to include evidence of competency in performing assigned tasks;

6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment;

7. the staff member's starting and termination dates;

8. proof of orientation, training and in-services;

9. results of criminal background checks, if required;

10. job descriptions and performance expectations;

11. a signed attestation annually by each member of the direct care staff indicating that he/she has not been convicted of or pled guilty or nolo contendere to a crime, other than traffic violations; and

12. written confidentiality agreement signed by the personnel every twelve months.

B. A CRC shall retain personnel files for at least three years following termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter F. Admission, Transfer and Discharge

§5367. Admission Requirements

A. A CRC shall not refuse admission to any individual on the grounds of race, national origin, ethnicity or disability.

B. A CRC shall admit only those individuals whose needs, pursuant to the screening, can be fully met by the center.

C. A CRC shall expect to receive individuals who present voluntarily to the unit and/or individuals who are brought to the unit under an OPC, CEC, or PEC.

D. The CRC shall develop and implement policies and procedures for diverting individuals when the CRC is at capacity, that shall include:

1. notifying emergency medical services (EMS), police and the OBH or its designee in the service area;

2. conducting a screening on each individual that presents to the center; and

3. safely transferring the presenting individual to an appropriate provider;

E. Pre-Admission Requirements

1. Prior to admission, the center shall attempt to obtain documentation from the referring emergency room, agency, facility or other source, if available, that reflects the client's condition.

2. The CRC shall conduct a screening on each individual that presents for treatment that:

a. is performed by a RN who may be assisted by other personnel;

b. is conducted within 15 minutes of entering the center;

c. determines eligibility and appropriateness for admission;

d. assesses whether the client is an imminent danger to self or others; and

e. includes the following:

i. taking vital signs;

ii. breath analysis and urine drug screen

iii. brief medical history including assessment of risk for imminent withdrawal; and

iv. clinical assessment of current condition to determine primary medical problem(s) and appropriateness of admission to CRC or transfer to other medical provider;

F. Admission Requirements

1. The CRC shall establish the CRC's admission requirements that include:

a. availability of appropriate physical accommodations;

b. legal authority or voluntary admission; and

c. written documentation that client and/or family if applicable, consents to treatment.

2. The CRC shall develop, implement and comply with admission criteria that, at a minimum, include the following inclusionary and exclusionary requirements:

a. Inclusionary: the client is experiencing a seriously acute psychological/emotional change which results in a marked increase in personal distress and exceeds the abilities and resources of those involved to effectively resolve it;

b. Exclusionary: the client is experiencing an exacerbation of a chronic condition that does not meet the inclusionary criteria listed in §5367.F.2.a.

3. If the client qualifies for admission into the CRC, the center shall ensure that a behavioral health assessment is conducted:

a. by a LMHP;

b. within 4 hours of being received in the unit unless extenuating or emergency circumstances preclude the delivery of this service within this time frame; and

c. includes the following:

i. a history of previous emotional, behavioral and substance use problems and treatment;

ii. a social assessment to include a determination of the need for participation of family members or significant others in the individual's treatment; the social, peer-group, and environmental setting from which the person comes; family circumstances; current living situation; employment history; social, ethnic, cultural factors; and childhood history; current or pending legal issues including charges, pending trial, etc.;

iii. an assessment of the individual's ability and willingness to cooperate with treatment;

iv. an assessment for any possible abuse or neglect; and

v. review of any laboratory results, results of breath analysis and urine drug screens on patients and the need for further medical testing.

4. The CRC shall ensure that a nursing assessment is conducted that is:

a. begun at time of admission and completed within 24 hours; and

b. conducted by a RN with the assistance of other personnel.

5. The center shall ensure that a physical assessment is conducted by an authorized licensed prescriber within 12 hours of admission that includes:

a. a complete medical history;

b. direct physical examination; and

c. documentation of medical problems.

6. The authorized license prescriber, LMHP and/or RN shall conduct a review of the medical and psychiatric records of current and past diagnoses, laboratory results, treatments, medications and dose response, side-effects and compliance with:

a. the review of data reported to clinical director;

b. synthesis of data received is incorporated into treatment plan by clinical director;

G. Client/Family Orientation. Upon admission or as soon as possible, each facility shall ensure that a confidential and efficient orientation is provided to the client and the client's designated representative, if applicable, concerning:

1. visitation;

2. physical layout of the center;

3. safety;

4. center rules; and

5. all other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5369. Discharge, Transfer and Referral Requirements

A. The CRC shall develop, implement and comply with policies and procedures that address when and how clients will be discharged and referred or transferred to other providers in accordance with applicable state and federal laws and regulations.

B. Discharge planning shall begin upon admission.

C. The CRC shall ensure that a client is discharged:

1. when the client's treatment goals are achieved, as documented in the client's treatment plan;

2. when the client's issues or treatment needs are not consistent with the services the center is authorized or able to provide; or

3. according to the center's established written discharge criteria.

D. Discharge Plan. Each CRC client shall have a written discharge plan to provide continuity of services that includes:

1. the client's transfer or referral to outside resources, continuing care appointments, and crisis intervention assistance;

2. documented attempts to involve the client and the family or an alternate support system in the discharge planning process;

3. the client's goals or activities to sustain recovery;

4. signature of the client or, if applicable, the client's parent or guardian, with a copy provided to the individual who signed the plan;

5. name, dosage and frequency of client's medications ordered at the time of discharge;

6. prescriptions for medications ordered at time of discharge; and

7. the disposition of the client's possessions, funds and/or medications, if applicable.

E. The discharge summary shall be completed within 30 days and include:

1. the client's presenting needs and issues identified at the time of admission;

2. the services provided to the client;

3. the center's assessment of the client's progress towards goals;

4. the circumstances of discharge; and

5. the continuity of care recommended following discharge, supporting documentation and referral information.

F. Transfer Process. The CRC responsible for the discharge and transfer of the client shall:

1. request and receive approval from the receiving facility prior to transfer;

2. notify the receiving facility prior to the arrival of the client of any significant medical/psychiatric conditions/complications or any other pertinent information that will be needed to care for the client prior to arrival; and

3. transfer all requested client information and documents upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter G. Program Operations

§5375. Treatment Services

A. A CRC shall:

1. operate 24 hours per day seven days a week;

2. operate up to 16 licensed beds;

3. provide services to either adults or minors but not both;

4. provide services that include, but are not limited to:

a. emergency screening;

b. assessment;

c. crisis intervention and stabilization;

d. 24 hour observation;

e. medication administration; and

f. referral to the most appropriate and least restrictive setting available consistent with the client's needs.

B. A CRC shall admit clients for an estimated length of stay of 3-7 days. If a greater length of stay is needed, the CRC shall maintain documentation of clinical justification for the extended stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5377. Laboratory Services

A. The CRC shall have laboratory services available to meet the needs of its clients, including the ability to:

1. obtain STAT laboratory results as needed at all times;

2. conduct a dipstick urine drug screen; and

3. conduct a breath analysis for immediate determination of blood alcohol level.

B. The CRC shall maintain a CLIA certificate for the laboratory services provided on-site.

C. The CRC shall ensure that all contracted laboratory services are provided by a CLIA clinical laboratory improvement amendment (CLIA) certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5379. Pharmaceutical Services and Medication Administration

A. The CRC may provide pharmaceutical services on-site at the center or off-site pursuant to a written agreement with a pharmaceutical provider.

B. All compounding, packaging, and dispensing of medications shall be accomplished in accordance with Louisiana law and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

C. The CRC shall ensure that a mechanism exists to:

1. provide pharmaceutical services 24 hours per day; and

2. obtain STAT medications, as needed, within an acceptable time frame, at all times.

D. CRCs that utilize off-site pharmaceutical providers pursuant to a written agreement shall have:

1. a physician who assumes the responsibility of procurement and possession of medications; and

2. an area for the secure storage of medication and medication preparation in accordance with Louisiana Board of Pharmacy rules and regulations.

E. A CRC shall maintain:

1. a site-specific Louisiana controlled substance license in accordance with the Louisiana Uniform Controlled Dangerous Substance Act; and

2. a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with Title 21 of the United States Code.

F. The CRC shall develop, implement and comply with written policies and procedures that govern:

1. the safe administration and handling of all prescription and non-prescription medications;

2. the storage, recording and control of all medications;

3. the disposal of all discontinued and/or expired medications and containers with worn, illegible or missing labels;

4. the use of prescription medications including:

a. when medication is administered, medical monitoring occurs to identify specific target symptoms;

b. a procedure to inform clients, staff, and where appropriate, client's parent(s), legal guardian(s) or designated representatives, of each medication's anticipated results, the potential benefits and side-effects as well as the potential adverse reaction that could result from not taking the medication as prescribed;

c. involving clients and, where appropriate, their parent(s) or legal guardian(s), and designated representatives in decisions concerning medication; and

d. staff training to ensure the recognition of the potential side effects of the medication.

5. the list of abbreviations and symbols approved for use in the facility;

6. recording of medication errors and adverse drug reactions and reporting them to the client's physician or authorized prescriber, and the nurse manager;

7. the reporting of and steps to be taken to resolve discrepancies in inventory, misuse and abuse of controlled substances in accordance with federal and state law;

8. provision for emergency pharmaceutical services;

9. a unit dose system; and

10. procuring and the acceptable timeframes for procuring STAT medications when the medication needed is not available on-site.

C. The CRC shall ensure that:

1. medications are administered by licensed health care personnel whose scope of practice includes administration of medications;

2. any medication is administered according to the order of an authorized licensed prescriber;

3. it maintains a list of authorized licensed prescribers that is accessible to staff at all times.

4. all medications are kept in a locked illuminated clean cabinet, closet or room at temperature controls

according to the manufacturer's recommendations, accessible only to individuals authorized to administer medications;

5. medications are administered only upon receipt of written orders, electromechanical facsimile, or verbal orders from an authorized licensed prescriber;

6. all verbal orders are signed by the licensed prescriber within 72 hours;

7. medications that require refrigeration are stored in a refrigerator or refrigeration unit separate from the refrigerators or refrigeration units that store food, beverages, or laboratory specimens;

8. all prescription medication containers are labeled to identify:

a. the client's full name;

b. the name of the medication;

c. dosage;

d. quantity and date dispensed;

e. directions for taking the medication;

f. required accessory and cautionary statements;

g. prescriber's name; and

h. the expiration date.

9. Medication errors, adverse drug reactions, and interactions with other medications, food or beverages taken by the client are immediately reported to the client's physician or authorized licensed prescriber, supervising pharmacist and nurse manager with an entry in the client's record.

10. All controlled substances shall be kept in a locked cabinet or compartment separate from other medications;

11. Current and accurate records are maintained on the receipt and disposition of controlled substances;

12. Controlled substances are reconciled:

a. at least twice a day by staff authorized to administer controlled substances; or

b. by an automated system that provides reconciliation;

13. Discrepancies in inventory of controlled substances are reported to the nurse manager and the supervising pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5381. Transportation

A. The CRC shall establish, implement and comply with policies and procedures to:

1. secure emergency transportation in the event of a client's medical emergency; and

2. provide non-emergent medical transportation to the clients as needed.

B. The facility shall have a written agreement with a transportation service in order to provide non-emergent transport services needed by its clients that shall require all vehicles used to transport CRC clients are:

1. maintained in a safe condition;

2. properly licensed and inspected in accordance with state law;

3. operated at a temperature that does not compromise the health, safety and needs of the client;

4. operated in conformity with all applicable motor vehicle laws

5. current liability coverage for all vehicles used to transport clients;

6. all drivers of vehicles that transport CRC clients are properly licensed to operate the class of vehicle in accordance with state law; and

7. the ability to transport non-ambulatory clients in appropriate vehicles if needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5383. Food and Diet

A. The CRC shall ensure that:

1. all dietary services are provided under the direction of a Louisiana licensed and registered dietician either directly or by written agreement;

2. menus are approved by the registered dietician;

3. meals are of sufficient quantity and quality to meet the nutritional needs of clients, including religious and dietary restrictions;

4. meals are in accordance with Federal Drug Administration (FDA) dietary guidelines and the orders of the authorized licensed prescriber;

5. at least three meals plus an evening snack are provided daily with no more than 14 hours between any two meals;

6. meals are served in a manner that maintains the safety and security of the client and are free of identified contraband;

7. all food is stored, prepared, distributed, and served under safe and sanitary conditions;

8. all equipment and utensils used in the preparation and serving of food are properly cleaned, sanitized and stored; and

9. if meals are prepared on-site, they are prepared in an OPH approved kitchen.

B. The CRC may provide meal service and preparation pursuant to a written agreement with an outside food management company. If provided pursuant to a written agreement, the CRC shall:

1. maintain responsibility for ensuring compliance with this Chapter;

2. provide written notice to HSS and OPH within 10 calendar days of the effective date of the contract;

3. ensure that the outside food management company possesses a valid OPH retail food permit and meets all requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the special requirements for highly susceptible populations as promulgated in the Louisiana Sanitary Code provisions governing food display and service for retail food establishments (specifically LAC 51:XXIII.1911 as amended May 2007); and

4. ensure that the food management company employs or contracts with a licensed and registered dietician who serves the center as needed to ensure that the nutritional needs of the clients are met in accordance with the authorized licensed prescriber's orders and acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter H. Client Rights

§5389. General Provisions

A. The CRC shall develop, implement and comply with policies and procedures that:

1. protect its clients' rights;

2. respond to questions and grievances pertaining to these rights;

3. ensure compliance with clients' rights enumerated in R.S. 28:171; and

4. ensure compliance with minors' rights enumerated in the Louisiana Children's Code.

B. A CRC's client and, if applicable, the client's parent(s) or legal guardian or chosen designated representative, have the following rights:

1. to be informed of the client's rights and responsibilities at the time of or shortly after admission;

2. to have a family member, chosen representative and/or his or her own physician notified of admission at the client's request to the CRC;

3. to receive treatment and medical services without discrimination based on race, age, religion, national origin, gender, sexual orientation, disability, marital status, diagnosis, ability to pay or source of payment;

4. to be free from abuse, neglect, exploitation and harassment;

5. to receive care in a safe setting;

6. to receive the services of a translator or interpreter, if applicable, to facilitate communication between the client and the staff;

7. to be informed of the client's own health status and to participate in the development, implementation and updating of the client's treatment plan;

8. to make informed decisions regarding the client's care in accordance with federal and state laws and regulations;

9. to consult freely and privately with the client's legal counsel or to contact an attorney at any reasonable time;

10. to be informed, in writing, of the policies and procedures for initiation, review and resolution of grievances or client complaints;

11. to submit complaints or grievances without fear of reprisal;

12. to have the client's information and medical records, including all computerized medical information, kept confidential in accordance with federal and state statutes and rules/regulations;

13. to be provided indoor and/or outdoor recreational and leisure opportunities;

14. to be given a copy of the center's rules and regulations upon admission or shortly thereafter;

15. to receive treatment in the least restrictive environment that meets the client's needs;

16. to be subject to the use of restraint and/or seclusion only in accordance with federal and state law, rules and regulations;

17. to be informed of all estimated charges and any limitations on the length of services at the time of admission or shortly thereafter;

18. to contact DHH at any reasonable time;

19. to obtain a copy of these rights as well as the address and phone number of DHH and the Mental Health Advocacy Service at any time; and

20. to be provided with personal hygiene products, including but not limited to, shampoo, deodorant, toothbrush, toothpaste, and soap, if needed.

C. A copy of the clients' right shall be posted in the facility and accessible to all clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5391. Grievances

A. The facility shall develop, implement and comply with a written grievance procedure for clients designed to allow clients to submit a grievance without fear of retaliation. The procedure shall include, but not be limited to:

1. process for filing a grievance;

2. a time line for responding to the grievance;

3. a method for responding to a grievance; and

4. the staff responsibilities for addressing and resolving grievances.

B. The facility shall ensure that:

1. the client and, if applicable, the client's parent(s) or legal guardian(s), is aware of and understands the grievance procedure; and

2. all grievances are addressed and resolved to the best of the center's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter I. Physical Environment

§5397. Interior Space

A. The CRC shall:

1. have a physical environment that protects the health, safety and security of the clients;

2. have routine maintenance and cleaning programs in all areas of the center;

3. be well-lit, clean, and ventilated;

4. conduct a risk assessment of each client and the physical environment of the facility in order to ensure the safety and well-being of all clients admitted to the facility;

5. maintain its physical environment, including, but not limited to, all equipment, fixtures, plumbing, electrical, and furnishings, in good order and safe condition in accordance with manufacturer's recommendations;

6. maintain heating, ventilation and cooling systems in good order and safe condition to ensure a comfortable environment; and

7. ensure that electric receptacles in client care areas are tamper-resistant or equipped with ground fault circuit interrupters.

B. Common Area. The CRC shall have designated space:

1. to be used for group meetings, dining, visitation, leisure and recreational activities;

2. that is at least 25 square feet per client and no less than 150 square feet exclusive of sleeping areas, bathrooms, areas restricted to staff and office areas; and

3. that contains tables for eating meals.

C. Bathrooms

1. Each bathroom to be used by clients shall contain:

a. a lavatory with:

i. paper towels or an automatic dryer;

ii. a soap dispenser with soap for individual use; and

iii. a wash basin with hot and cold running water;

b. tubs and/or showers that:

i. have hot and cold water;

ii. have slip proof surfaces; and

iii. allow for individual privacy

c. toilets:

i. an adequate supply of toilet paper;

ii. with seats; and

iii. that allow for individual privacy;

d. at least one sink, one tub or shower and one toilet for every eight clients.

e. shatterproof mirrors secured to the walls at convenient heights;

f. plumbing, piping, ductwork, and that are recessed or enclosed in order to be inaccessible to clients; and

g. other furnishings necessary to meet the clients' basic hygienic needs.

2. A CRC shall have at least one separate toilet and lavatory facility for the staff.

D. Sleeping Areas and Bedrooms

1. A CRC that utilizes a sleeping area for multiple clients shall ensure that its sleeping area:

a. is at least 60 square feet per bed of clear floor area; and

b. does not contain bunk beds.

2. Bedrooms. A CRC shall ensure that each bedroom:

a. accommodates no more than one client; and

b. is at least 80 square feet of clear floor area.

3. The CRC that utilizes a sleeping area for multiple clients shall maintain at least one bedroom.

4. The CRC shall ensure that each client:

a. has sufficient separate storage space for clothing, toilet articles and other personal belongings of clients;

b. has sheets, pillow, bedspread, towels, washcloths and blankets that are:

i. intact and in good repair,

ii. systematically removed from use when no longer usable;

iii. clean;

iv. provided as needed or when requested unless the request is unreasonable;

c. is given a bed for individual use that:

i. is no less than 30 inches wide,

ii. is of solid construction,

iii. has a clean, comfortable, impermeable, nontoxic and fire retardant mattress, and

iv. is appropriate to the size and age of the client.

E. Administrative and Staff Areas

1. The CRC shall maintain a space that is distinct from the client common areas that serves as an office for administrative functions.

2. The CRC shall have a designated space for nurses and other staff to complete tasks, be accessible to clients and to observe and monitor client activity within the unit.

F. Counseling and Treatment Area

1. The CRC shall have a designated space to allow for private physical examination that is exclusive of sleeping area and common space.

2. The CRC shall have a designated space to allow for private and small group discussions and counseling sessions between individual clients and staff that is exclusive of sleeping areas and common space.

3. The CRC may utilize the same space for the counseling area and examination area.

G. Seclusion Room

1. The CRC shall have at least one seclusion room that:

a. is for no more than one client; and

b. allows for continual visual observation and monitoring of the client either:

i. directly; or

ii. by a combination of video and audio;

c. has a monolithic ceiling;

d. is a minimum of 80 square feet; and

e. contains a stationary restraint bed that is secure to the floor;

f. flat walls that are free of any protrusions with angles;

g. does not contain electrical receptacles;

H. Kitchen

1. If a CRC prepares meals on-site, the CRC shall have a full service kitchen that:

a. includes a cooktop, oven, refrigerator, freezer, hand washing station, storage and space for meal preparation;

b. complies with OPH regulations;

c. has the equipment necessary for the preparation, serving, storage and clean-up of all meals regularly served to all of the clients and staff;

d. contains trash containers covered and made of metal or United Laboratories-approved plastic; and

e. maintains the sanitation of dishes.

2. A CRC that does not provide a full service kitchen accessible to staff 24 hours per day shall have a nourishment station or a kitchenette, restricted to staff only, in which staff may prepare nourishments for clients, that includes:

a. a sink;

b. a work counter;

c. a refrigerator;

d. storage cabinets;

e. equipment for preparing hot and cold nourishments between scheduled meals; and

f. space for trays and dishes used for non-scheduled meal service.

3. A CRC may utilize ice making equipment if the ice maker:

a. is self-dispensing; or

b. is in an area restricted to staff only;

I. Laundry

1. The CRC shall have an automatic washer and dryer for use by staff when laundering clients' clothing.

2. The CRC shall have:

a. provisions to clean and launder soiled linen, other than client clothing, either on-site or off-site by written agreement;

b. a separate area for holding soiled linen until it is laundered; and

c. a clean linen storage area.

J. Storage

1. The CRC shall have separate and secure storage areas that are inaccessible to clients for the following:

a. client possessions that may not be accessed during their stay;

b. hazardous, flammable and/or combustible materials; and

2. records and other confidential information.

K. Furnishings

1. The CRC shall ensure that its furnishings are:

a. designed to suit the size, age and functional status of the clients;

b. in good repair;

c. clean;

d. promptly repaired or replaced if defective, run-down or broken.

L. Hardware, fixtures and other protrusions

1. If grab bars are used, the CRC shall ensure that the space between the bar and the wall shall be filled to prevent a cord from being tied around it.

2. All hardware as well as sprinkler heads, lighting fixtures and other protrusions shall be:

a. recessed or of a design to prohibit client access; and

b. tamper-resistant.

3. Towel bars, shower curtain rods, clothing rods and hooks are prohibited.

M. Ceilings

1. The CRC shall ensure that the ceiling is:

a. no less than 7.5 feet high and secured from access; or

b. at least 9 feet in height; and

c. all overhead plumbing, piping, duct work or other potentially hazardous elements shall be concealed above the ceiling.

N. Doors and Windows

1. All windows shall be fabricated with laminated safety glass or protected by polycarbonate, laminate or safety screens.

2. Door hinges shall be designed to minimize points for hanging.

3. Except for specifically designed antiligature hardware, door handles shall point downward in the latched or unlatched position.

4. All hardware shall have tamper-resistant fasteners.

5. The center shall ensure that outside doors, windows and other features of the structure necessary for safety and comfort of individuals:

a. are secured for safety;

b. prohibit clients from gaining unauthorized egress;

c. prohibit an outside from gaining unauthorized ingress;

d. if in disrepair, not accessible to clients until repaired; and

e. repaired as soon as possible.

6. The facility shall ensure that all closets, bedrooms and bathrooms for clients that are equipped with doors do not have locks and can be readily opened from both sides.

O. Smoking

1. The CRC shall prohibit smoking in the interior of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5399. Exterior Space Requirements

A. The CRC shall maintain all exterior areas to prevent elopement, injury, suicide and the introduction of contraband, and shall maintain a perimeter security system designed to monitor and control visitor access and client egress.

B. The facility shall maintain all exterior areas and structures of the facility in good repair and free from any reasonably foreseeable hazard to health or safety.

C. The facility shall ensure the following:

1. garbage stored outside is secured in non-combustible, covered containers and are removed on a regular basis;

2. trash collection receptacles and incinerators are separate from any area accessible to clients and located as to avoid being a nuisance;

3. unsafe areas, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads are fenced or have natural barriers to protect clients;

4. fences that are in place are in good repair;

5. exterior areas are well lit; and

6. the facility has appropriate signage that:

a. is visible to the public;

b. indicates the facility's legal or trade name;

c. clearly states that the CRC provides behavioral health services only; and

d. indicates the center is not hospital or emergency room.

D. A CRC with an outdoor area to be utilized by its clients shall ensure that the area is safe and secure from access and egress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 54. Crisis Receiving Centers

Subchapter J. Safety and Emergency Preparedness

§5401. General Safety Provisions

A. The CRC shall provide additional supervision when necessary to provide for the safety of all clients.

B. The CRC shall:

1. prohibit weapons of any kind on-site;

2. prohibit glass, hand sanitizer, plastic bags in client-care areas;

3. ensure that all poisonous, toxic and flammable materials are:

a. maintained in appropriate containers and labeled as to the contents;

b. securely stored in a locked cabinet or closet;

c. are used in such a manner as to ensure the safety of clients, staff and visitors; and

d. maintained only as necessary;

4. ensure that all equipment, furnishing and any other items that are in a state of disrepair are removed and inaccessible to clients until replaced or repaired; and

5. ensure that when potentially harmful materials such as cleaning solvents and/or detergents are used, training is provided to the staff and they are used by staff members only.

C. The CRC shall ensure that a first aid kit is available in the facility and in all vehicles used to transport clients.

D. The CRC shall simulate fire drills and other emergency drills at least once a quarter while maintaining client safety and security during the drills.

E. Required Inspections. The CRC shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations.

F. The CRC shall have an on-going safety program to include:

1. continuous inspection of the facility for possible hazards;

2. continuous monitoring of safety equipment and maintenance or repair when needed;

3. investigation and documentation of all accidents or emergencies; and

4. fire control, evacuation planning and other emergency drills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5403. Infection Control

A. The CRC shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases.

B. The CRC shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with OPH guidelines;

2. monitoring of:

a. the spread of infectious disease;

b. hand washing;

c. staff and client education; and

d. incidents of specific infections in accordance with OPH guidelines.

3. corrective actions;

4. a designated Infection Control coordinator who:

a. has education and/or experience in infection control;

b. develops and implements policies and procedures governing the infection control program;

c. takes universal precautions; and

d. strictly adheres to all sanitation requirements.

5. The CRC shall maintain a clean and sanitary environment and shall ensure that:

a. supplies and equipment are available to staff;

b. there is consistent and constant monitoring and cleaning of all areas of the facility;

c. the methods used for cleaning, sanitizing, handling and storing of all supplies and equipment prevent the transmission of infection;

d. directions are posted for sanitizing both kitchen and bathroom and laundry areas;

e. showers and bathtubs are to be sanitized by staff between client usage;

f. clothing belonging to clients must be washed and dried separately from the clothing belonging to other clients; and

g. laundry facilities are used by staff only;

h. food and waste are stored, handled, and removed in a way that will not spread disease, cause odor, or provide a breeding place for pests;

C. The CRC may enter into a written contract for housekeeping services necessary to maintain a clean and neat environment.

D. Each CRC shall have an effective pest control plan.

E. After discharge of a client, the CRC shall:

1. clean the bed, mattress, cover, bedside furniture and equipment;

2. ensure that mattresses, blankets and pillows assigned to clients are intact and in a sanitary condition; and

3. ensure that the mattress, blankets and pillows used for a client are properly sanitized before assigned to another client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5405. Emergency Preparedness

A. The CRC shall have a written emergency preparedness plan to:

1. maintain continuity of the center's operations in preparation for, during and after an emergency or disaster; and

2. manage the consequences of all disasters or emergencies that disrupt the center's ability to render care and treatment, or threaten the lives or safety of the clients.

B. The CRC shall:

1. post exit diagrams describing how to clear the building safely and in a timely manner;

2. have a clearly labeled and legible master floor plan(s) that indicates:

a. the areas in the facility that are to be used by clients as shelter or safe zones during emergencies;

b. the location of emergency power outlets and whether they are powered;

c. the locations of posted, accessible, emergency information; and

d. what will be powered by emergency generator(s), if applicable;

3. train its employees in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

C. The CRC's emergency preparedness plan shall include the following information, at a minimum.

1. If the center evacuates, the plan shall include:

a. provisions for the evacuation of each client and delivery of essential services to each client;

b. the center's method of notifying the client's family or caregiver, if applicable, including:

i. the date and approximate time that the facility or client is evacuating;

ii. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and

iii. a telephone number that the family or responsible representative may call for information regarding the client's evacuation;

c. provisions for ensuring that supplies, medications, clothing and a copy of the treatment plan are sent with the client, if the client is evacuated;

d. the procedure or methods that will be used to ensure that identification accompanies the client including:

i. current and active diagnosis;

ii. medication, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions; and

v. next of kin, including contact information if applicable.

e. transportation or arrangements for transportation for an evacuation;

2. provisions for staff to maintain continuity of care during an emergency as well as for distribution and assignment of responsibilities and functions;

3. the delivery of essential care and services to clients who are housed in the facility or by the facility at another location, during an emergency or disaster;

4. the determination as to when the facility will shelter in place and when the facility will evacuate for a disaster or emergency and the conditions that guide these determinations in accordance with local or parish OSHEP.

5. If the center shelters in place, provisions for seven days of necessary supplies to be provided by the center prior to the emergency, including drinking water or fluids and non-perishable food.

D. The center shall:

1. follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency;

2. if the state, parish or local OHSEP orders a mandatory evacuation of the parish or the area in which the agency is serving, shall ensure that all clients are evacuated according to the facility's emergency preparedness plan;

3. not abandon a client during a disaster or emergency;

4. review and update its emergency preparedness plan at least once a year;

5. cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and shall provide information as requested;

6. monitor weather warnings and watches as well as evacuation order from local and state emergency preparedness officials;

7. upon request by the department, submit a copy of its emergency preparedness plan for review;

8. upon request by the department, submit a written summary attesting to how the plan was followed and executed to include, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5407. Inactivation of License due to a Declared Disaster or Emergency

A. A CRC located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the center:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the CRC has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the CRC intends to resume operation as a CRC in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

e. lists the clients and the location of the discharged or transferred clients;

2. resumes operating as a CRC in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

4. continues to submit required documentation and information to the department.

B. Upon receiving a completed request to inactivate a CRC license, the department shall issue a notice of inactivation of license to the CRC.

C. In order to obtain license reinstatement, a CRC with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening that includes:

a. the anticipated date of opening, and a request to schedule a licensing survey;

b. a completed licensing application and other required documents with licensing fees, if applicable; and

c. written approvals for occupancy from OSFM and OPH.

D. Upon receiving a completed written request to reinstate a CRC license and other required documentation, the department shall conduct a licensing survey.

E. If the CRC meets the requirements for licensure and the requirements under this subsection, the department shall issue a notice of reinstatement of the center's license.

F. During the period of inactivation, the department prohibits:

1. a change of ownership (CHOW) in the CRC; and

2. an increase in the licensed capacity from the CRC's licensed capacity at the time of the request to inactivate the license.

G. The provisions of this Section shall not apply to a CRC which has voluntarily surrendered its license.

H. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the CRC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello 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

1403#051

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
(LAC 50.V.2501, 2701, 2705 and 2707)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2501, 2701, 2705, and 2707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule which amended the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register*, Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the June 29, 2010 Emergency Rule to revise the provisions governing DSH payments to allow for additional payments after completion of the Centers for Medicare and Medicaid Services' mandated independent audit for the state fiscal year (*Louisiana Register*, Volume 37, Number 6). Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to non-rural community hospitals to eliminate the community hospital psychiatric DSH pool (*Louisiana Register*, Volume 39, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the June 20, 2011 Emergency Rule in order to revise the formatting as a result of the promulgation of the February 1, 2013 Emergency Rule governing non-rural community hospitals (*Louisiana Register*, Volume 39, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2013 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective March 21, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Medical Assistance Program—Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - B.3.…

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for

disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. After completion of a Center for Medicare and Medicaid Services' (CMS) mandated independent audit for the state fiscal year, additional payments may occur subject to the conditions specified in §2705.D.2 and §2707.B. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

B.5. - 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 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), amended LR 36:512 (March 2010), LR 40:

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

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 34:655 (April 2008), amended LR 34:2402 (November 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§2705. Small Rural Hospitals

A. - D.1.b. ...

2. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from small rural hospitals based on these reported audit results. If the small rural hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all small rural hospitals.

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 40:

§2707. Public State-Operated Hospitals

A. ...

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment shall be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.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 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#052

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Dental Program—Reimbursement Rate Reduction
(LAC 50:XV.6905)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 4).

Due to a budgetary shortfall in state fiscal year 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective March 31, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis and Treatment
Chapter 69. Dental Services
§6905. Reimbursement

A. - J. …

K. Effective for dates of service on or after August 1, 2013, the reimbursement fees for EPSDT dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.

1. The following services shall be excluded from the August 1, 2013 rate reduction:

a. removable prosthodontics; and

b. orthodontic services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:2040 (September 2010), LR 37:1598 (June 2011), LR 39:1048 (April 2013), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#053

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
Children's Choice—Allocation of Waiver Opportunities for Chisholm Class Members
(LAC 50:XXI.Chapter 111, 11301-11303 and Chapter 115)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapter 111, §§11301-§11303 and Chapter 115 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 and the Office for Citizens with Developmental Disabilities amended the provisions governing the children's choice waiver to clarify the provisions of the waiver and to adopt provisions for a self-direction initiative which will allow participants and their families to receive coordination of children's choice services through a direct support professional rather than a licensed enrolled provider agency (*Louisiana Register,* Volume 39, 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 to Medicaid eligible children identified in the Melanie Chisholm, et al vs. Kathy Kliebert class action litigation (hereafter referred to as Chisholm class members) who have a diagnosis of pervasive developmental disorder or autism spectrum disorder, and are in need of applied behavioral analysis (ABA) services. This Emergency Rule also adopted criteria governing the provision of ABA services to Chisholm class members *(Louisiana Register*, Volume 39, Number 10).

The department subsequently amended the provisions of the September 19, 2013 Emergency Rule governing the children's choice waiver in order to clarify the provisions for the allocation of waiver opportunities and the criteria governing the provision of ABA services to eligible Chisholm class members (*Louisiana Register*, Volume 39, Number 10). This Emergency Rule is being promulgated to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 20, 2013 Emergency Rule governing the children's choice waiver which clarified the provisions governing ABA services for eligible Chisholm class members.

This action is being taken to comply with the judge's order that ABA services be provided to Chisholm class members, and to avoid imminent peril to the public health and welfare of Chisholm class members who are in immediate need of ABA services until such time as a 1915(i) Medicaid state plan or other Medicaid state plan service is approved by the Centers for Medicare and Medicaid Services. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2013-2014 as the fiscal projections were included in the September 19, 2013 Emergency Rule governing the ABA services to Chisholm class members.

Effective February 22, 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 allocation of opportunities in the children's choice waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 9. Children's Choice
Chapter 111. General Provisions
§11103. Recipient Qualifications

A. - B. …

C. Children who reach their nineteenth birthday while participating in the children's choice waiver will transfer into an appropriate waiver for adults as long as they remain

eligible for waiver services, with the exception of the reserved waiver opportunities allocated to Chisholm class members in need of applied behavioral analysis (ABA) services who have received a children's choice waiver slot. Their name will be returned to the developmental disabilities request for services registry with the original date of request.

D. Children's choice waiver services shall also be available to children who have been identified as Chisholm class members who are on the development disabilities request for services registry and have a clinically documented diagnosis of pervasive developmental disorder or autism spectrum disorder, and who are in need of applied behavioral analysis (ABA) 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:2498 (September 2013), LR 40:

§11104. Admission Denial or Discharge Criteria

A. - A.8.c. …

B. Children who reach their nineteenth birthday while participating in the children's choice waiver will transfer into an appropriate waiver for adults as long as they remain eligible for waiver services. Participants in the ABA reserved capacity group will not automatically transfer into a new opportunities waiver slot for adults upon reaching their nineteenth birthday. They will return to the request for services registry with their original request date unless otherwise indicated.

C. Once ABA services are available as Medicaid state plan services, Chisholm class members who received a waiver opportunity because they were in need of ABA services will be discharged from the waiver with no right to an administrative appeal. The Chisholm class members will be transferred to the Medicaid state plan ABA 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498 (September 2013), amended LR 40:

§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;

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; and

c. the reserved waiver opportunities which are allocated solely to Chisholm class members in need of ABA services.

B. - B.1.b. …

C. - C.6. Reserved.

D. Effective September 19, 2013, 165 children's choice waiver opportunities shall be reserved for Chisholm class members who have a clinically documented diagnosis of pervasive developmental disorder or autism spectrum disorder and who are in need of applied behavioral analysis services. These waiver opportunities must only be filled by a class member and no alternate may utilize a Chisholm class member waiver opportunity.

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:

Chapter 113. Services

§11301. Service Cap

A. - C. …

D. Effective August 1, 2012, children's choice services are capped at $16,410 per individual per plan of care year.

1. The capped amount shall not apply to ABA services provided to persons entering the waiver under the reserved slots for Chisholm class members.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:2157 (July 2011), LR 39:507 (March 2013), LR 39:2498 (September 2013), LR 40:

§11303. Service Definitions

A. - G.7.j. …

H. Applied Behavioral Analysis-Based Therapy

1. - 2. …

3. Services must be prior authorized.

I. - M.3.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, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 39:2498 (September 2013), LR 40:

Chapter 115. Providers

Subchapter A. Provider Qualifications

§11501. Support Coordination Providers and Service Providers

A. …

B. Service Providers. Agencies licensed to provide personal care attendant services may enroll as a provider of children's choice services with the exception of support coordination services and therapy services, including ABA services. Agencies that enroll to be a children's choice service provider shall provide family support services, and shall either provide or subcontract for center-based respite, environmental accessibility adaptations, family training, and

specialized medical equipment and supplies. Families of participants shall choose one service provider agency from those available in their region that will provide all waiver services, except support coordination, therapy services, ABA services, and family support services delivered through the self-direction model.

1. - 1.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, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1984 (September 2002), amended LR 39:2501 (September 2013), LR 40:

Subchapter B. Provider Requirements

§11523. Enrollment

A. Both support coordination and direct services providers must comply with the requirements of this §11523 in order to participate as children choice providers, with the exception of ABA service providers who are exempt from the requirements of §11523.H. Agencies will not be added to the freedom of choice (FOC) list of available providers maintained by OCDD until they have received a Medicaid provider number.

B. - N. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002), amended LR 28:2533 (December 2002), repromulgated LR 29:38 (January 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 40:

§11529. Professional Services Providers

A. - H. …

I. Applied behavioral analysis-based therapy services must be provided by persons enrolled in the Medicaid program who:

1. meet the following licensure and/or certification requirements:

a. be a board-certified behavior analyst (BCBA) through the Behavior Analyst Certification Board (BACB); or

b. be a currently Louisiana licensed psychologist, licensed clinical social worker, licensed professional counselor, licensed marriage and family therapist, licensed addiction counselor, or advanced practice registered nurse, with coursework that includes, at a minimum, 40 hours of coursework in behavior analysis, behavior management theory, techniques, interventions and ethics, and autism spectrum disorders, and includes:

i. at a minimum, one year (1500 hours) of supervised clinical experience inclusive of:

(a). a minimum of one year of direct care services to children;

(b). a minimum of one year of direct care utilizing applied behavior analysis, behavior techniques, interventions, and monitoring of behavior plan implementation; and

(c). experience that must have included work with individuals with autism spectrum disorders; or

c. possess a master's degree or doctoral degree in psychology, social work, professional counseling, or other human services related field, with coursework that includes, at a minimum, 40 hours of coursework in behavior analysis, behavior management theory, techniques, interventions and ethics, and autism spectrum disorders; and

i. at a minimum, one year (1,500 hours) of supervised clinical experience inclusive of:

(a). a minimum of one year of direct care services to children; and

(b). a minimum of one year of direct care utilizing applied behavior analysis, behavior techniques, interventions and monitoring of behavior plan implementation; and

(c). experience that must have included work with individuals with autism spectrum disorders;

2. are covered by professional liability insurance to limits of $1,000,000 per occurrence, $1,000,000 aggregate;

3. have no sanctions or disciplinary actions on BCBA or BCBA-D certification and/or state licensure;

4. have no Medicare/Medicaid sanctions and are not excluded from participation in federally-funded programs (OIG-LEIE listing, system for award management (SAM) listing and state Medicaid sanctions listings); and

5. must have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the behavior analyst master's/doctoral is currently working and residing.

a. Evidence of this background check shall be provided by the service provider or by his/her employer.

b. Criminal background checks must be performed at the time of hire and at least every five years thereafter.

J. Behavior Analyst—Bachelor's Level

1. Behavior analyst bachelor's level providers must meet one of the following criteria:

a. be a board-certified assistant behavior analyst (BCaBA) through the BACB; or

b. hold a state-issued certificate, registration, credential, or other designation as a behavior analyst-bachelor's level.

2. Behavior analyst bachelor's level providers must work under the supervision of a service provider listed in §11529.I. This supervisory relationship must be documented in writing.

3. The provider must be covered by professional liability insurance to limits of $1,000,000 per occurrence, $1,000,000 aggregate through their employer or group (if not professional liability insurance, then covered under general liability insurance through employer or group).

4. The provider must have no sanctions or disciplinary actions if state-certified or board-certified by the BACB.

5. The provider must not have Medicaid or Medicare sanctions or be excluded from participation in federally-funded programs (OIG-LEIE listing, system for award management (SAM) listing and state Medicaid sanctions listings).

6. The provider must have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the behavioral analyst bachelor's level is currently working and residing.

a. Evidence of this background check shall be provided by the employer.

b. Criminal background checks must be performed at the time of hire and at least every five years thereafter.

K. Enrolled providers may employ support staff who meet the following requirements to assist in the delivery of ABA services.

1. Applicants must meet one of the following criteria:

a. possess a master's degree;

b. be a register nurse (RN) or licensed practical nurse (LPN) without a bachelor's degree;

c. possess a bachelor's degree; or

d. have completed two years in psychology education, social work, behavioral science, human development or related fields with no degree.

2. Providers must have 40 hours minimum in applied behavior analysis by a recognized organization such as:

a. a United States or Canadian institution of higher education fully or provisionally accredited by a regional, state, provincial or national accrediting body;

b. a joint commission or commission on accreditation of rehabilitation facilities or accredited health care facility;

c. a private agency whose primary business activity is the delivery of services to children with developmental disabilities and whose governing board includes one or more BCBAs; or

d. web-based instruction provided by an accredited institution of higher education.

3. Behavior analyst support staff must work under the supervision of a behavior analyst masters/doctoral or behavior analyst bachelors level who is themselves supervised by a behavior analyst masters/doctoral practitioner.

a. No fewer than two hours every two weeks of formal, documented supervision must be provided.

b. The supervisory relationship must be described in a formal, written document.

4. Applicants must meet all of the following requirements:

a. covered by professional liability insurance to limits of $1,000,000 per occurrence, $1,000,000 aggregate through their employer or group (if not professional liability insurance, then covered under general liability insurance through their employer or group);

b. may not have Medicaid/Medicare sanctions or be excluded from participation in federally-funded programs (OIG-LEIE listing, system for award management (SAM) listing and state Medicaid sanctions listings); and

c. must have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the support staff is currently working and residing:

i. Evidence of this background check is provided by the employer. Criminal background checks must be performed at the time of hire and at least every five years thereafter.

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 39:2501 (September 2013), 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.

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

1403#004

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Hospice Services (LAC 50:XV.Chapters 33-43)

The Department of Health and Hospitals, Bureau of Health Services Financing, amends LAC 50:XV.Chapters 33-43 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.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for hospice services provided to long-term care residents to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing hospice services in order to bring these provisions into compliance with the requirements of the Patient Protection and Affordable Care Act (PPACA) and also amended the provisions governing prior authorization for hospice services in order to control the escalating costs associated with the Hospice Program (*Louisiana Register*, Volume 38, Number 3). The department promulgated a Notice of Intent which further revised and clarified the provisions governing hospice services (*Louisiana Register*, Volume 39, Number 11). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 1, 2012 Emergency Rule to incorporate the revisions made in the Notice of Intent and to revise the formatting of these provisions in order to ensure that the provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 39, Number 11).

The department now proposes to amend the November 20, 2013 Emergency Rule to further clarify the provisions governing prior authorization for hospice services. This action is being taken to avoid sanctions from the U.S. Department of Health and Human Services, Centers for

Medicare and Medicaid Services for noncompliance with PPACA requirements, and to avoid a budget deficit in the medical assistance programs.

Effective March 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2013 Emergency Rule governing hospice services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 33. Provider Participation

§3301. Conditions for Participation

A. Statutory Compliance

1. Coverage of Medicaid hospice care shall be in accordance with:

a. 42 USC 1396d(o); and

b. the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418.

B. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 35. Recipient Eligibility

§3501. Election of Hospice Care

A. …

B. An election statement must be filed with a particular hospice for the individual who meets the eligibility requirements as set forth in §3501.A above.

1. The election must be filed by the eligible individual or by a person authorized by law (legal representative) to consent to medical treatment for such individual.

a. A legal representative does not have the authority to elect, revoke, or appeal the denial of hospice services if the recipient is able to and wishes to convey a contrary choice.

B.2. - F. …

G. Election Statement Requirements. The election statement must include:

1. …

2. the individual's or his/her legal representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness;

3. - 4. …

5. the signature of the individual or his/her legal representative.

H. Duration of Election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual:

1. remains in the care of a hospice;

2. does not revoke the election under the provisions of §3505; and

3. is not discharged from hospice in accordance with §3505.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1466 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§3503. Waiver of Payment for Other Services

A. Individuals who are 21 and over, and approved to receive hospice, may not receive any other services that are related to the treatment of the terminal condition or that are equivalent to hospice care, with the exception of long-term personal care services. The hospice provider must provide services to the individual that are comparable to the services they received through Medicaid prior to their election of hospice. These services include, but are not limited to:

1. pharmaceutical and biological services;

2. durable medical equipment; and

a. - c. Repealed.

3. any other services permitted by federal law.

4. The services listed in §3503.A.1-3 are for illustrative purposes only. The hospice provider is not exempt from providing care if an item or category is not listed.

B. Individuals under age 21 who are approved for hospice may continue to receive curative treatments for their terminal illness; however, the hospice provider is responsible to coordinate all curative treatments related to the terminal illness.

1. *Curative Treatments*—medical treatment and therapies provided to a patient with the intent to improve symptoms and cure the patient's medical problem. Antibiotics, chemotherapy, a cast for a broken limb are examples of curative care.

2. Curative care has as its focus the curing of an underlying disease and the provision of medical treatments to prolong or sustain life.

3. The hospice provider is responsible to provide durable medical equipment or contract for the provision of durable medical equipment. Personal care services, extended home health, and pediatric day health care must be coordinated with hospice services pursuant to §3705.C.

C. Individuals who elect hospice services may also receive long-term personal care services (LT-PCS) concurrently. The hospice provider and the LT-PCS provider must coordinate services and develop the patient’s plan of care as set forth in §3705.

D. The hospice provider is responsible for making a daily visit to all clients under age 21 and for the coordination of care to assure there is no duplication of services. The daily visit is not required if the person is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§3505. Revoking the Election of Hospice Care/Discharge

A. - A.4.b. …

5. Re-election of Hospice Benefits. If an election has been revoked in accordance with the provisions of this §3505, the individual or his/her representative may at any time file an election, in accordance with §3501, for any other election period that is still available to the individual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 37. Provider Requirements

§3701. Requirements for Coverage

A. To be covered, a certification of terminal illness must be completed as set forth in §3703, the election of hospice care form must be completed in accordance with §3501, and a plan of care must be established in accordance with §3705. A written narrative from the referring physician explaining why the patient has a prognosis of six months or less must be included in the certificate of terminal illness.

B. Prior authorization requirements stated in Chapter 41 of these provisions are applicable to all election periods.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§3703. Certification of Terminal Illness

A. …

1. For the first 90-day period of hospice coverage, the hospice must obtain a verbal certification no later than two calendar days after hospice care is initiated. If a verbal certification is not obtained within two calendar days following the initiation of hospice care, a written certification must be made within 10 calendar days following the initiation of hospice care. The written certification and notice of election must be obtained before requesting prior authorization for hospice care. If these requirements are not met, no payment is made for the days prior to the certification. Instead, payment begins with the day certification, i.e., the date all certification forms are obtained.

a. - c. Repealed.

2. For the subsequent periods, a written certification must be included in an approved prior authorization packet before a claim may be billed.

a. - 4. Repealed.

B. Face-to-Face Encounter

1. A hospice physician or hospice nurse practitioner must have a face-to-face encounter with each hospice patient whose total stay across all hospices is anticipated to reach the third benefit period. The face-to-face encounter must occur no more than 30 calendar days prior to the third benefit period recertification, and every benefit period recertification thereafter, to gather clinical findings to determine continued eligibility for hospice care.

2. The physician or nurse practitioner who performs the face-to-face encounter with the patient must attest in writing that he or she had a face-to-face encounter with the patient, including the date of that visit. The attestation of the nurse practitioner or a non-certifying hospice physician shall state that the clinical findings of that visit were provided to the certifying physician for use in determining continued eligibility for hospice care.

C. Content of Certifications

1. Certifications shall be based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness.

2. The certification must specify that the individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course.

3. Written clinical information and other documentation that support the medical prognosis must accompany the certification of terminal illness and must be based on the physician's clinical judgment regarding the normal course of the individual's illness filed in the medical record with the written certification, as set forth in §3703.C.

4. The physician must include a brief written narrative explanation of the clinical findings that support a life expectancy of six months or less as part of the certification and recertification forms, or as an addendum to the certification/recertification forms:

a. if the physician includes an addendum to the certification and recertification forms, it shall include, at a minimum:

i. the patient's name;

ii. physician's name;

iii. terminal diagnosis(es);

iv. prognosis; and

v. the name and signature of the IDG member making the referral;

b. the narrative must reflect the patient's individual clinical circumstances and cannot contain check boxes or standard language used for all patients;

c. the narrative associated with the third benefit period recertification and every subsequent recertification must include an explanation of why the clinical findings of the face-to-face encounter support a life expectancy of six months or less, and shall not be the same narrative as previously submitted;

d. prognosis; and

e. the name and signature of the IDG member taking the referral.

5. All certifications and recertifications must be signed and dated by the physician(s), and must include the benefit period dates to which the certification or recertification applies.

D. Sources of Certification

1. For the initial 90-day period, the hospice must obtain written certification statements as provided in §3703.A.1 from:

a. the hospice's medical director or physician member of the hospice's interdisciplinary group; and

b. the individual's referring physician.

i. The referring physician is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most

significant role in the determination and delivery of the individual's medical care.

ii. The referring physician is the physician identified within the Medicaid system as the provider to which claims have been paid for services prior to the time of the election of hospice benefits.

2. For subsequent periods, the only requirement is certification by either the medical director of the hospice or the physician member of the hospice interdisciplinary group.

E. Maintenance of Records. Hospice staff must make an appropriate entry in the patient's clinical record as soon as they receive an oral certification and file written certifications in the clinical record.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§3705. Plan of Care

A. - B. …

C. When developing the plan of care (POC), the hospice provider must consult with, and collaborate with the recipient, his/her caregiver, and his/her long-term personal care services provider, and if the recipient is under age 21, his/her extended home nursing provider and/or pediatric day health care provider. If the recipient is receiving any of these services at the time of admission to hospice, the hospice provider must ensure that the POC clearly and specifically details the services and tasks, along with the frequency, to be performed by the non-hospice provider(s), as well as the services and tasks, along with the frequency, that are to be performed by the hospice provider to ensure that services are non-duplicative and that the recipient's needs are being met.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 39. Covered Services

§3901. Medical and Support Services

A. - A.11.b.iv. …

c. Inpatient Respite Care Day. An inpatient respite care day is a day on which the individual receives care in an approved facility on a short-term basis, not to exceed five days in any one election period, to relieve the family members or other persons caring for the individual at home. An approved facility is one that meets the standards as provided in 42 CFR §418.98(b). This service cannot be delivered to individuals already residing in a nursing facility.

d. General Inpatient Care Day. A general inpatient care day is a day on which an individual receives general inpatient care in an inpatient facility that meets the standards as provided in 42 CFR §418.98(a) and for the purpose of pain control or acute or chronic symptom management which cannot be managed in other settings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 41. Prior Authorization

§4101. Prior Authorization of Hospice Services

A. Prior authorization is required for all election periods as specified in §3501.C of this Subpart. The prognosis of terminal illness will be reviewed. A patient must have a terminal prognosis and not just certification of terminal illness. Authorization will be made on the basis that a patient is terminally ill as defined in federal regulations. These regulations require certification of the patient's prognosis, rather than diagnosis. Authorization will be based on objective clinical evidence contained in the clinical record which supports the medical prognosis that the patient's life expectancy is six months or less if the illness runs its normal course and not simply on the patient's diagnosis.

1. The Medicare criteria found in local coverage determination (LCD) hospice determining terminal status (L32015) will be used in analyzing information provided by the hospice to determine if the patient meets clinical requirements for this program.

2. Providers shall submit the appropriate forms and documentation required for prior authorization of hospice services as designated by the department in the Medicaid Program's service and provider manuals, memorandums, etc.

B. Written Notice of Denial. In the case of a denial, a written notice of denial shall be submitted to the hospice, recipient, recipient's legal representative, and nursing facility, if appropriate.

C. Reconsideration. Claims will only be paid from the date of the hospice notice of election if the prior authorization request is received within 10 days from the date of election and is approved. If the prior authorization request is received 10 days or more after the date on the hospice notice of election, the approved begin date for hospice services is the date the completed prior authorization packet is received.

D. Appeals. If the recipient does not agree with the denial of a hospice prior authorization request, the recipient, the recipient's legal representative, or the hospice on behalf of the recipient, can request an appeal of the prior authorization decision. The appeal request must be filed with the Division of Administrative Law within 30 days from the date of the postmark on the denial letter. The appeal proceedings will be conducted in accordance with the Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 43. Reimbursement

§4303. Levels of Care for Payment

A. - B.3. …

C. Inpatient Respite Care. The inpatient respite care rate is paid for each day the recipient is in an approved inpatient

facility and is receiving respite care (see §3901.A.11.c). Respite care may be provided only on an occasional basis and payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge. Payment for the day of discharge in a respite setting shall be at the routine home level-of-care discharged alive rate.

1. …

2. Respite care may not be provided when the hospice patient is a nursing home resident, regardless of the setting, i.e., long-term acute care setting.

D. General Inpatient Care. Payment at the inpatient rate is made when an individual receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care is a short-term level of care and is not intended to be a permanent solution to a negligent or absent caregiver. A lower level of care must be used once symptoms are under control. General inpatient care and nursing facility or intermediate care facility for persons with intellectual disabilities room and board cannot be reimbursed for the same recipient on the same covered days of service. Payment for the day of discharge in a general inpatient setting shall be at the routine home level-of-care discharged alive rate.

1. - 2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4305. Hospice Payment Rates

A. - A.2. …

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis. The physician visit for the face-to-face encounter will not be reimbursed by the Medicaid Program.

b. - d.ii. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), LR 34:441 (March 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§4307. Payment for Long Term Care Residents

A. …

1. who is residing in a nursing facility or intermediate care facility for persons with intellectual disabilities (ICF/ID);

2. who would be eligible under the state plan for nursing facility services or ICF/ID services if he or she had not elected to receive hospice care;

3. …

4. for whom the hospice agency and the nursing facility or ICF/ID have entered into a written agreement in accordance with the provisions set forth in the licensing standards for hospice agencies (LAC 48:I.Chapter 82), under which the hospice agency takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual.

B. - D. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1471 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), LR 40:

§4309. Limitation on Payments for Inpatient Care

A. …

1. During the 12-month period beginning November 1 of each year and ending October 31, the number of inpatient respite care days for any one hospice recipient may not exceed five days per occurrence.

2. - 2.b. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to Medicaid.Policy@la.gov. Ms. Kennedy 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

1403#046

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends 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 and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service

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

As a result of a budgetary shortfall in state fiscal year (SFY) 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register,* Volume 37, Number 7).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid for NICU and PICU services rendered by non-rural, non-state hospitals and to revise the outlier payment methodology (*Louisiana Register*, Volume 37, Number 3). The department promulgated an Emergency Rule which amended the March 1, 2011 Emergency Rule governing the reimbursement methodology for inpatient hospital services to revise the formatting of these provisions in order to ensure that the provisions were promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 8).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 38, Number 8). Due to a continuing budgetary shortfall in SFY 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 39, Number 1).

Due to a continuing budgetary shortfall in SFY 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals and to change the frequency of payments (*Louisiana Register*, Volume 39, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective March 21, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the supplemental payments pool for non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - H.2. ...

3. - 5. Reserved.

I. - I.2. ...

3. - 5. Reserved

J.- N.2.b. ...

3. - 6. Reserved.

O. - Q.1. ...

R. - S. Reserved.

T. Effective for dates of service on or after November 20, 2013, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to $1,000,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

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), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), 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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#054

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Developmental Disabilities—Public Facilities Reimbursement Methodology
(LAC 50:VII.32969)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32969 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 public intermediate care facilities for persons with developmental disabilities (ICFs/DD) to establish a transitional Medicaid reimbursement rate for community homes that are being privatized (*Louisiana Register*, Volume 39, Number 2). This Rule also adopted all of the provisions governing reimbursements to state-owned and operated facilities and quasi-public facilities in a codified format for inclusion in the *Louisiana Administrative Code*.

The department amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition (*Louisiana Register*, Volume 39, Number 10). This Emergency Rule is being promulgated to assure compliance with the technical requirements of R.S. 49:53, and to continue the provisions of the October 1, 2013 Emergency Rule governing transitional rates for public facilities which redefined the period of transition. This action is being taken to protect the health and welfare of Medicaid recipients transitioning from public ICFs/DD. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2013-2014 as stated in the October 1, 2013 Emergency Rule governing the transitional rates for public facilities.

Effective February 22, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for public intermediate care facilities for persons with developmental disabilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities
Chapter 329. Reimbursement Methodology
Subchapter C. Public Facilities
§32969. Transitional Rates for Public Facilities

A. - A.4.a. …

B. The transitional Medicaid reimbursement rate shall only be for the period of transition, which is defined as the term of the CEA or a period of four years, whichever is shorter.

C. - F.4. …

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 39:326 (February 2013), 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.

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

1403#003

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual Disabilities
Provider Fee Increase (LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to reduce the per diem rates (*Louisiana Register*, Volume 39, Number 10).

The department now proposes to amend the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee.

This action is being taken to secure new and enhanced funding by increasing revenue collections to the state. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately $523,937 for state fiscal year 2013-2014.

Effective April 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities to increase the provider fee.

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

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

i. Effective for dates of service on or after April 1, 2014, the add-on amount to each ICF/ID's per diem rate for the provider fee shall be increased to $16.15 per day.

E. - M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 361555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), 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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#047

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

LaCHIP Affordable Plan
Dental Program
Reimbursement Rate Reduction
(LAC 50:III.20509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the LaCHIP Affordable Plan Dental Program in order to reduce the reimbursement fees (*Louisiana Register*, Volume 39, Number 5). Due to a budgetary shortfall in state fiscal year 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the LaCHIP Affordable Plan dental services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective March 31, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the LaCHIP Affordable Plan dental services to reduce the reimbursement rates.

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
§20509. Dental Services Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 1, 2013, the reimbursement fees for LaCHIP Affordable Plan dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.

1. The following services shall be excluded from the August 1, 2013 rate reduction:
   a. removable prosthodontics; and
   b. orthodontic services.

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, Bureau of Health Services Financing, LR 39:1285 (May 2013), amended LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#055

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medical Transportation Program
Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). The provisions of the July 1, 2012 Emergency Rule were finalized in May 2013 (*Louisiana Register, Volume 39, Number 5).* In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated a subsequent Emergency Rule which amended the provisions governing emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective March 29, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 3. Emergency Medical Transportation
Subchapter B. Ground Transportation
§325. Reimbursement

A. - I. …

J. Effective for dates of service on or after August 1, 2012, the reimbursement rates for emergency ambulance transportation services shall be reduced by 5 percent of the rates on file as of July 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), amended LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:

Subchapter C. Aircraft Transportation
§353. Reimbursement

A. - G. …

H. Effective for dates of service on or after August 1, 2012, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by 5 percent of the rates on file as of July 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, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2594 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#056

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.6703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.6703 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 outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state

owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3).

The department promulgated an Emergency Rule which amended the provisions governing reimbursement for Medicaid payments for outpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state owned and operated facility (*Louisiana Register*, Volume 38, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 15, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective April 13 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50
PULIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services
Chapter 67. Public-Private Partnerships
§6703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients, and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows.

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitative Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#057

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Pediatric Day Health Care Program
(LAC 48:I.5237, 5247, 5257, 12501-12503,
and 12508 and LAC 50:XV.27503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.5237, §5247, §5257, §12501-12503, adopts §12508, and amends LAC 50:XV.27503 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.

In compliance with Act 432 of the 2004 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the licensing standards for pediatric day health care facilities (*Louisiana Register*, Volume 35, Number 12). The department subsequently adopted provisions to implement pediatric day health care (PDHC) services as an optional covered service under the Medicaid State Plan (*Louisiana Register*, Volume 36, Number 7).

The department now proposes to amend the licensing standards for PDHC facilities to revise the provisions governing provider participation, development and educational services and transportation requirements. The department also proposes to adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR) Program. This Emergency Rule will also amend the provisions governing pediatric day health care services in order to revise the recipient criteria which will better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services.

This action is being taken to avoid sanctions or federal penalties from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), as the administrative rule is not consistent with the approved Medicaid state plan for PDHC services, and to ensure that these optional services are more cost effective

and appropriate. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $389,332 in state fiscal year 2013-2014.

Effective March 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the recipient criteria for pediatric day health care services.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 52. Pediatric Day Health Care Facilities

Subchapter D. Participation Requirements

§5237. Acceptance Criteria

A. - D.1. …

2. The medical director of the PDHC facility may provide the referral to the facility only if he/she is the child's prescribing physician, and only if the medical director has no ownership interest in the PDHC facility.

3. No member of the board of directors of the PDHC facility may provide a referral to the PDHC. No member of the board of directors of the PDHC facility may sign a prescription as the prescribing physician for a child to participate in the PDHC facility services.

4. No physician with ownership interest in the PDHC may provide a referral to the PDHC. No physician with ownership interest in the PDHC may sign a prescription as the prescribing physician for a child to participate in the PDHC facility services.

5. Notwithstanding anything to the contrary, providers are expected to comply with all applicable federal and state rules and regulations including those regarding anti-referral and the Stark Law.

E. - G.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended LR 40:

Subchapter E. Pediatric Day Health Care Services

§5247. Developmental and Educational Services

A. …

B. For any child enrolled in the early intervention program (EarlySteps) or the local school district's program under the Individuals with Disabilities Act, the PDHC facility shall adhere to the following.

1. …

2. The PDHC facility shall not duplicate services already provided through the early intervention program or the local school district. EarlySteps services cannot be provided in the PDHC unless specifically approved in writing by the DHH EarlySteps Program. Medicaid waiver services cannot be provided in the PDHC unless specifically approved in writing by the Medicaid waiver program. The PDHC shall maintain a copy of such written approval in the child's medical record.

B.3. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2770 (December 2009), amended LR 40:

§5257. Transportation

A. The PDHC facility shall provide or arrange transportation of children to and from the facility; however, no child, regardless of his/her region of origin, may be in transport for more than one hour on any single trip. The PDHC facility is responsible for the safety of the children during transport. The family may choose to provide their own transportation.

1. - 1.b. Repealed.

B. Whether transportation is provided by the facility on a daily basis or as needed, the general regulations under this Section shall apply.

C. If the PDHC facility provides transportation for children, the PDHC facility shall maintain in force at all times current commercial liability insurance for the operation of PDHC facility vehicles, including medical coverage for children in the event of accident or injury.

1. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment.

2. The PDHC facility shall maintain documentation that consists of the insurance policy or current binder that includes the name of the PDHC facility, the name of the insurance company, policy number, and period of coverage and explanation of coverage.

3. DHH health standards shall specifically be identified as the certificate holder on the policy and any certificate of insurance issued as proof of insurance by the insurer or producer (agent). The policy must have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

D. If the PDHC facility arranges transportation for children through a transportation agency, the facility shall maintain a written contract which is signed by a facility representation and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

1. The written contract shall be dated and time limited and shall conform to these licensing regulations.

2. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for children in the event of accident or injury. Documentation of the insurance shall consist of the:

a. insurance policy or current binder that includes the name of the transportation agency;

b. name of the insurance agency;

c. policy number;

d. period of coverage; and

e. explanation of coverage.

3. DHH health standards shall specifically be identified as the certificate holder on the policy and any certificate of insurance issued as proof of insurance by the insurer or producer (agent). The policy must have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. - 10. Repealed.

E. Transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility

through a written contract with a transportation agency shall meet the following requirements.

1. Transportation agreements shall conform to state laws, including laws governing the use of seat belts and child restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the children served by the PDHC facility.

2. The driver or attendant shall not leave the child unattended in the vehicle at any time.

2.a. - 6. Repealed.

F. Vehicle and Driver Requirements

1. The requirements of Paragraph F of this Section shall apply to all transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency.

2. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

3. The following actions shall be prohibited in any vehicle while transporting children:

a. the use of tobacco in any form;

b. the use of alcohol;

c. the possession of illegal substances; and

d. the possession of firearms, pellet guns, or BB guns (whether loaded or unloaded).

4. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

5. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport children on behalf of the PDHC facility. At a minimum, a Class "D" Chauffeur's license is required for all drivers who transport children on behalf of the PDHC facility.

6. Each transportation vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle. This shall include oxygen, pulse oximeter, and suction equipment. Additionally, this shall include airway management equipment and supplies required to meet the needs of the children being transported.

8. Each driver or attendant shall be provided with a current master transportation list including:

a. each child's name;

b. pick up and drop off locations; and

c. authorized persons to whom the child may be released.

i. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include:

a. the driver's name;

b. the date of the trip;

c. names of all passengers (children and adults) in the vehicle; and

d. the name of the person to whom the child was released and the time of release.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number, and address of the facility for emergency situations.

G. Child Safety Provisions

1. The requirements of Paragraph G of this Section shall apply to all transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency.

2. The driver and one appropriately trained staff member shall be required at all times in each vehicle when transporting any child. Staff shall be appropriately trained on the needs of each child, and shall be capable and responsible for administering interventions when appropriate.

3. Each child shall be safely and properly:

a. assisted into the vehicle;

b. restrained in the vehicle;

c. transported in the vehicle; and

d. assisted out of the vehicle.

4. Only one child shall be restrained in a single safety belt or secured in any American Academy of Pediatrics recommended age appropriate safety seat.

5. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no child is left in the vehicle.

a. The PDHC facility shall maintain documentation that includes the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

6. During field trips, the driver or staff member shall check the vehicle and account for each child upon arrival at, and departure from, each destination to ensure that no child is left in the vehicle or at any destination.

a. The PDHC facility shall maintain documentation that includes the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of children during the field trip. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

7. Appropriate staff person(s) shall be present when each child is delivered to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2771 (December 2009), amended LR 40:

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

* * *

Pediatric Day Health Care (PDHC) Providers—a facility that may operate seven days a week, not to exceed 12 hours a day, to provide care for medically fragile children under the age of 21, including technology dependent children who require close supervision. Care and services to be provided by the pediatric day health care facility shall include, but not be limited to:

a. nursing care, including, but not limited to:

i. tracheotomy and suctioning care;

ii. medication management; and

iii. intravenous (IV) therapy;

b. respiratory care;

c. physical, speech, and occupational therapies;

d. assistance with activities of daily living;

e. transportation services; and

f. education and training.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 40:

§12503. General Information

A. - B. …

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. …

4. hospice providers or inpatient hospice facilities;

5. outpatient abortion facilities; and

6. pediatric day health care facilities.

D. - F.4. …

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD, ADHC providers, hospice providers, outpatient abortion facilities, and pediatric day health care centers that meet one of the following conditions:

1. - 3. …

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012;

5. outpatient abortion facilities which were licensed by the department on or before May 20, 2012; or

6. pediatric day health care providers that were licensed by the department before March 1, 2014, or had a completed license packet, including a plan review approval, necessary inspections, and applicable licensing fee submitted to the department by March 1, 2014.

H. - H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1593 (July 2012), LR 38:1961 (August 2012), LR 40:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12508. Pediatric Day Health Care Providers

A. No PDHC provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of a PDHC provider license. Once the FNR Program approval is granted, a PDHC provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. For purposes of facility need review, the service area for a proposed PDHC shall be within a 30 mile radius of the proposed physical address where the provider will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional PDHC provider in the geographic location and service area for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other PDHC providers in the same geographic location, region, and service area servicing the same population; and

b. allegations involving issues of access to health care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application. FNR approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed providers are non-transferable and are limited to the location and the name of the original licensee.

1. A PDHC provider undergoing a change of location in the same licensed service area shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A PDHC provider undergoing a change of location outside of the licensed service area shall submit a new FNR application and appropriate fee and undergo the FNR approval process.

2. A PDHC provider undergoing a change of ownership shall submit a new application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity or location without application to and approval by the FNR program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. be from birth up to 21 years of age;

2. require ongoing skilled medical care or skilled nursing care by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN);

3. have a medically complex condition(s) which require frequent, specialized therapeutic interventions and close nursing supervision. Interventions are those medically necessary procedures provided to sustain and maintain health and life. Interventions required and performed by individuals other than the recipient's personal care giver would require the skilled care provided by professionals at PDHC centers. Examples of medically necessary interventions include, but are not limited to:

a. suctioning using sterile technique;

b. provision of care to a ventilator dependent and/or oxygen dependent recipients to maintain patent airway and adequate oxygen saturation, inclusive of physician consultation as needed;

c. monitoring of blood pressure and/or pulse oximetry level in order to maintain stable health condition and provide medical provisions through physician consultation;

d. maintenance and interventions for technology dependent recipients who require life-sustaining equipment; or

e. complex medication regimen involving, and not limited to, frequent change in dose, route, and frequency of multiple medications, to maintain or improve the recipient's health status, prevent serious deterioration of health status and/or prevent medical complications that may jeopardize life, health or development;

4. have a medically fragile condition, defined as a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile individuals are medically complex and potentially dependent upon medical devices, experienced medical supervision, and/or medical interventions to sustain life;

a. medically complex may be considered as chronic, debilitating diseases or conditions, involving one or more physiological or organ systems, requiring skilled medical care, professional observation or medical intervention;

b. examples of medically fragile conditions include, but are not limited to:

i. severe lung disease requiring oxygen;

ii. severe lung disease requiring ventilator or tracheotomy care;

iii. complicated heart disease;

iv. complicated neuromuscular disease; and

v. unstable central nervous system disease;

5. have a signed physician's order, not to exceed 180 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

6. be stable for outpatient medical services.

B. If the medical director of the PDHC facility is also the child's prescribing physician, the Department reserves the right to review the prescription for the recommendation of the child's participation in the PDHC Program.

1. - 1.j. Repealed.

C. Re-evaluation of PDHC services must be performed, at a minimum, every 120 days. This evaluation must include a review of the recipient's current medical plan of care and provider agency documented current assessment and progress toward goals.

D.A face-to-face evaluation shall be held every four months by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. Physician's orders for services are required to individually meet the needs of each recipient and shall not be in excess of the recipient's needs. Physician orders prescribing or recommending PDHC services do not, in themselves, indicate services are medically necessary or indicate a necessity for a covered service. Eligibility for participation in the PDHC Program must also include meeting the medically complex provisions of this Section.

F. When determining the necessity for PDHC services, consideration shall be given to all of the services the recipient may be receiving, including waiver services and other community supports and services. This consideration must be reflected and documented in the recipient's treatment plan.

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 36:1557 (July 2010), 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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Pharmacy Benefits Management Program
State Supplemental Rebate Agreement Program
(LAC 50:XXIX.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXIX.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL $olution (TOP$) State Supplemental Rebate Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits. This Emergency Rule is being promulgated to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL $olution (TOP$) State Supplemental Rebate Agreement Program.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2013-2014 as the fiscal projections were included in the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program.

Effective February 22, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medicaid coverage of prescription drugs to establish provisions for participation in TOP$ State Supplemental Rebate Agreement Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy
Chapter 11. State Supplemental Rebate Agreement Program
§1101. General Provisions

A. Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL $olution (TOP$) State Supplemental Rebate Agreement (SRA) Program. TOP$ is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOP$. Provider Synergies/Magellan Medicaid Administration will act on the department's behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration 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, 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.

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

1403#002

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 promulgated an Emergency Rule which adopted 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 (*Louisiana Register*, Volume 39, Number 12). This Emergency Rule also established criteria for the sanctioning of providers and managed care entities who engage in provider steering of Medicaid recipients. The department now proposes to amend the December 1, 2013 Emergency Rule in order to clarify these provisions and to incorporate provisions governing provider appeals.

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 §438.104.

Effective March 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the December 1, 2013 Emergency Rule 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

Health Plan—any managed care organization (MCO), prepaid inpatient *health plan* (PIHP), prepaid ambulatory *health plan* (PAHP), or primary care case management (PCCM) entity contracted with the Medicaid Program.

Provider—any Medicaid service *provider* contracted with a health plan and/or enrolled in the Medicaid Program.

Provider Steering—unsolicited advice or mass-marketing directed at Medicaid recipients by health plans, including any of the entity's employees, affiliated providers, agents, or contractors, that is intended to influence or can reasonably be concluded to influence the Medicaid recipient to enroll in, not enroll in, or disenroll from a particular health plan(s).

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:

§1303. Provider Sanctions

A. First Offense. If the department determines that a provider has participated in provider steering, the department will notify the provider in writing and, at its sole discretion, may impose any of the following sanctions as applicable.

1. 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.

2. 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.

3. A provider may be assessed a monetary sanction of up to $1,000 for each recipient steered to join a particular managed care health plan or to participate in Medicaid fee-for-service. The maximum total penalty per incident shall not exceed $10,000.

4. 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.

B. Second Offense

1. If a provider continues to participate in provider steering after having been cited once for provider steering, and receiving one of the above sanctions, that provider may then be subject to disenrollment from the Medicaid program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§1305. Provider Appeal Rights

A. Informal Hearing

1. A provider who has received a notice of sanction shall be provided with an informal hearing if the provider makes a written request for an informal hearing within 15 days of the mailing of the notice of sanction. The request for an informal hearing must be made in writing and sent in accordance with the instructions contained in the notice of sanction. The time and place for the informal hearing will be provided in the notice scheduling the informal hearing.

2. Following the informal hearing, the department shall inform the provider, by written notice, of the results of the informal hearing. The provider has the right to request an administrative appeal within 30 days of the date on the notice of the informal hearing results that is mailed to the provider.

B. Administrative Appeals

1. The provider may seek an administrative appeal of the department's decision to impose sanctions.

2. The request for an administrative appeal must be filed with the Division of Administrative Law within 30 days of the date the written sanction notice is mailed to the 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, Bureau of Health Services Financing, LR 40:

§1307. Health Plan Sanctions

A. If the department determines the Health Plan or its subcontractors has participated in provider steering, the department, at its sole discretion, may impose the following sanctions.

1. The member(s) may be disenrolled from the health plan at the earliest effective date allowed.

2. Up to 100 percent of the monthly capitation payment or care management fee for the month(s) the member(s) was enrolled in the health plan may be recouped.

3. The health plan may be assessed a monetary penalty of up to $5,000 per member.

4. The health plan may be required to submit a letter to each member notifying he member of their imposed sanction and of their right to choose another health plan.

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:

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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

1403#048

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Public Health

Minimum Disinfectant Residual Levels
in Public Water Systems
(LAC 51:XII.Chapter 3, 903, Chapter 11 and 1503)

The state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A) (8) and (13), hereby adopts the following Emergency Rule to prevent an imminent peril to the public health and safety. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.).

The state health officer, through DHH-OPH, finds it necessary to promulgate an Emergency Rule effective March 6, 2014. This Emergency Rule increases the minimum disinfection residual levels that are required for public water systems. Among other items addressed as well, the rule increases the number of residual measurements taken monthly by 25 percent. The Rule clarifies that daily residual measurements are required at the point of maximum residence time in the distribution system and records of chlorine residual measurements taken in the distribution system, besides from the treatment plant(s) itself, shall be recorded and retained by the public water system as required by the National Primary Drinking Water Regulations (as this term is defined in Part XII). This Rule is based upon scientific data and recommendations from the federal Centers for Disease Control and Prevention (CDC) relative to the control of the *Naegleria fowleri* (brain-eating amoeba) parasite, which has recently been found in two public water systems in Louisiana. Unless rescinded or terminated earlier, this Emergency Rule shall remain in effect for the maximum period authorized under state law. This Emergency Rule may be amended as additional research and science data becomes available.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 3. Water Quality Standards

§311. Records
[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the National Primary Drinking Water Regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 40:

§355. Mandatory Disinfection
[formerly paragraph 12:021-1]

A. Routine, continuous disinfection is required of all public water systems.

1. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, water being delivered to the distribution system shall contain a minimum concentration of 0.5 mg/l of chloramine residual (measured as total chlorine).

2. Where a continuous free chlorination method is used, water being delivered to the distribution system shall contain a minimum concentration of free chlorine residual in accordance with the following table.

Table 355.A.2	
pH Value	**Free Chlorine Residual**
up to 7.0	0.5 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

a. Table 355.A.2 does not apply to systems using chloramines.

b. pH values shall be measured in accordance with the methods set forth in §1105.D. of this Part.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:2514 (December 2002), LR 35:1240 (July 2009), LR 38:2376 (September 2012), LR 40:

§357. Minimum Disinfection Residuals
[formerly paragraph 12:021-2]

A. Disinfection equipment shall be operated to maintain disinfectant residuals in each finished water storage tank and at all points throughout the distribution system at all times in accordance with the following minimum levels:

1. a free chlorine residual of 0.5 mg/l; or

2. a chloramine residual (measured as total chlorine) of 0.5 mg/l for those systems that feed ammonia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 40:

§361. Implementation of Disinfection Requirements

A. A public water system not holding a disinfection variance on November 6, 2013 shall comply with the requirements of §355.A, §357, §367.C, and §367.G of this Part on the later of:

1. February 1, 2014; or

2. the expiration date of any additional time for compliance beyond February 1, 2014 granted by the state health officer. A request for additional time may be submitted in writing prior to February 1, 2014 only, and shall provide detailed justification and rationale for the additional time requested. The state health officer may grant such additional time if significant infrastructure improvements are required to achieve compliance with said requirements.

B. A public water system holding a disinfection variance on November 6, 2013 shall comply with one of the following options by February 1, 2014:

1. implement continuous disinfection that complies with the requirements of §355.A, §357, §367.C, and §367.G of this Part;

2. request additional time for complying with the requirements of §355.A, §357, §367.C, and §367.G of this Part by submitting a written request, if significant infrastructure improvements are required to achieve compliance therewith or extraordinary circumstances exist with regard to the introduction of disinfection to the system. Such written request shall provide detailed justification and rationale for the additional time requested;

3. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) notify the state health officer in writing that in lieu of implementing continuous disinfection, the PWS has provided, and will thereafter provide on a quarterly basis, notification to all system users, in a manner compliant with §1907 of this Part, that the system does not disinfect its water. The notification shall state that because the water is not disinfected, the water quality is unknown in regard to the *Naegleria fowleri* amoeba. A public water system selecting this option must sign an acknowledgement form, to be developed by the state health officer, stating that the public water system understands the risks presented by the lack of disinfection and that the public water system maintains responsibility for ensuring the safety of its water for end users; or

4. (This option shall be available only if the public water system's potable water distribution piping is utilized for onsite industrial processes.) request approval of an alternate plan providing water quality and public health protection equivalent to the requirements of §355.A and §357 of this Part. The state health officer may approve such a plan only if it is supported by peer reviewed, generally accepted research and science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), repealed and re-promulgated LR 40:

§363. Revocation of Variances
[formerly paragraph 12:021-5]

A. A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system shall install mandatory continuous disinfection as stated in §355 of this Part within the times specified in a compliance schedule submitted to and approved by the state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation.

B. Except for variances held by qualifying public water systems that comply with §361.B.3 of this Part or receive approval of an alternate plan under §361.B.4 of this Part, any variance concerning the mandatory disinfection requirements of §355 and/or §357 of this Part held by a public water system as of November 6, 2013 shall be automatically revoked on the later of:

1. February 1, 2014;

2. The expiration date of any additional time for compliance granted by the state health officer under §361.B.2 of this Part; or

3. The denial of a request for approval of an alternate plan submitted under §361.B.4 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 40:

§367. Disinfectant Residual Monitoring and Record Keeping
[formerly paragraph 12:021-7]

A. Disinfectant Residual Monitoring in Treatment Plant. A public water system (PWS) shall measure the residual disinfectant concentration in water being delivered to the distribution system at least once per day.

B. Disinfectant Residual Monitoring in Distribution System. A PWS shall measure the residual disinfectant concentration within the distribution system:

1. by sampling at the same points in the distribution system and at the same times that samples for total coliforms are required to be collected by the PWS under this Part;

2. by sampling at an additional number of sites calculated by multiplying 0.25 times the number of total coliform samples the PWS is required under this Part to take on a monthly or quarterly basis, rounding any mixed (fractional) number product up to the next whole number. These additional residual monitoring samples shall be taken from sites in low flow areas and extremities in the distribution system at regular time intervals throughout the applicable monthly or quarterly sampling period; and

3. by sampling at the site that represents the maximum residence time (MRT) in the distribution system at least once per day.

C. A PWS shall increase sampling to not less than daily at any site in the distribution system that has a measured disinfectant residual concentration of less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) until such disinfectant residual concentration is achieved at such site.

D. The records of the measurement and sampling required under Subsections A and B of this Section shall be maintained on forms approved by the state health officer and shall be retained as prescribed in the National Primary Drinking Water Regulations, and shall be made available for review upon request by the state health officer.

E. Each PWS shall submit a written monitoring plan to the state health officer for review and approval. The monitoring plan shall be on a form approved by the state health officer and shall include all the total coliform and disinfectant residual monitoring sites required under this Section and §903.A of this Part. Each PWS shall also submit a map of the distribution system depicting all total coliform and disinfectant residual monitoring sites required under this Section. The sites shall be identified along with a 911 street address (if there is no 911 street address, then the latitude/longitude coordinates shall be provided). A PWS in existence as of November 6, 2013 shall submit such a monitoring plan no later than January 1, 2014.

F. Chlorine residuals shall be measured in accordance with the analytical methods set forth in §1105.C of this Part.

G. Where a continuous chloramination (i.e., chlorine with ammonia addition) method is used, a nitrification control plan shall be developed and submitted to the state health officer. A PWS in existence as of November 6, 2013 shall submit such a nitrification control plan no later than March 1, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:1195 (June 2004), LR 40:

Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]

§903. Coliform Routine Compliance Monitoring [formerly Coliform Routine Compliance Monitoring of Appendix C]

A. Public water systems shall collect routine total coliform samples at sites which are representative of water throughout the distribution system in accordance with a written monitoring plan approved by the state health officer. Each public water system (PWS) shall submit a written monitoring plan on a form approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsections C and D of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address (if there is no 911 street address, then the latitude/longitude coordinates shall be provided). In accordance with requirements of Subsection E of this Section, the plan shall also indicate how the PWS will alternate routine sampling between all of the approved POC sampling sites.

B. - D. …

E. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per month.

F. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 40:

Chapter 11. Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1102. Relationship with this Part

A. In those instances where the requirements of this Chapter are stricter than or conflict with the requirements of this Part generally, a public water system utilizing surface water or ground water under the direct influence of surface water (GWUDISW) shall comply with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 40:

§1105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required under this Chapter shall be conducted by a laboratory certified by DHH to do such analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. - B.3. …

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1.

Table 1

Residual	Methodology	Standard Methods[1]	ASTM Methods[2]	Other Methods
Free Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Syringaldazine (FACTS)	4500-Cl H, 4500-Cl H-00		
	On-line Chlorine Analyzer			EPA 334.0[3]
	Amperometric Sensor			ChloroSense[4]
Total Chlorine	Amperometric Titration	4500-Cl D, 4500-Cl D-00	D 1253-03	
	Amperometric Titration (low level measurement)	4500-Cl E, 4500-Cl E-00		
	DPD Ferrous Titrimetric	4500-Cl F, 4500-Cl F-00		
	DPD Colorimetric	4500-Cl G, 4500-Cl G-00		
	Iodometric Electrode	4500-Cl I, 4500-Cl I-00		
	On-line Chlorine Analyzer			EPA 334.0[3]
	Amperometric Sensor			ChloroSense[4]

Table 1				
Residual	**Methodology**	**Standard Methods[1]**	**ASTM Methods[2]**	**Other Methods**
Chlorine Dioxide	Amperometric Titration	4500-ClO_2 C		
	DPD Method	4500-ClO_2 D		
	Amperometric Titration II	4500-ClO_2 E, 4500-ClO_2 E-00		
	Lissamine Green Spectrophotometric			EPA 327.0 Rev 1.1[5]
Ozone	Indigo Method	4500-O_3 B, 4500-O_3 B-97		

1. All the listed methods are contained in the 18th, 19th, 20th, 21st, and 22nd Editions of *Standard Methods for the Examination of Water and Wastewater*; the cited methods published in any of these editions may be used.
2. *Annual Book of ASTM Standards*,Vol. 11.01, 2004 ; ASTM International; any year containing the cited version of the method may be used. Copies of this method may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700 West Conshohocken, PA 19428-2959.
3. EPA Method 334.0. "Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at *http://epa.gov/safewater/methods/analyticalmethods_ogwdw.html* .
4. ChloroSense. "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at *http://www.nemi.gov* or from Palintest Ltd, 21 Kenton Lands Road, PO Box 18395, Erlanger, KY 41018.
5. EPA Method 327.0, Revision 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," USEPA, May 2005, EPA 815-R-05-008. Available online at*http://www.epa.gov/safewater/methods/sourcalt.html.*

D. - E.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8)(13) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:2516 (December 2002), LR 40:

Subchapter B. Treatment Technique Requirements and Performance Standards

§1113. Treatment Technique Requirements

A. - A.3. …

4. the total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and *Cryptosporidium*;

5. the residual disinfectant concentration in the water delivered to the distribution system is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine for more than 4 hours in any 24 hour period; and

6. the residual disinfectant concentration is not less than 0.5 mg/l free chlorine or 0.5 mg/l total chlorine in more than 5 percent of the samples collected each month from the distribution system for any two consecutive months.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002), LR 35:1241 (July 2009), LR 40:

§1117. Non-Filtering Systems

A. - C.1. …

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring.

b. …

2. To avoid filtration, the system shall maintain minimum disinfectant residual concentrations in accordance with the requirements of §355 and §357 of this Part. Performance standards shall be as presented in §1119.B and C of this Chapter.

3. - 3.a. …

b. an automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.5 mg/l free chlorine residual or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - D.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8)(13) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2520 (December 2002), LR 35:1242 (July 2009), LR 40:

§1119. Disinfection Performance Standards

A. …

B. Except as otherwise specified by this Section and Chapter, disinfection treatment shall comply with the minimum standards and requirements set forth in §355.A and §357 of this Part.

C. - C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8)(13) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002), LR 35:1242 (July 2009), amended LR 40:

Subchapter C. Monitoring Requirements

§1125. Disinfection Monitoring

A. - A.5. …

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every two hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working

days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 10 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3,300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 4 of this Chapter, provided that any time the residual disinfectant falls below 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine), the supplier shall take a grab sample every two hours until the residual concentrations is equal to or greater than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

* * *

D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations in the distribution system shall be measured, recorded, and maintained in accordance with §367.B, C, D and E of this Part. A monitoring plan shall be developed, submitted, reviewed, and approved in accordance with §367.E of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2523 (December 2002), LR 35:1243 (July 2009), LR 40:

Subchapter E. Reporting

§1133. DHH Notification

A. - A.4. …

5. the disinfectant residual measured from any sample collected from water being delivered to the distribution system is found to be less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine). The notification shall indicate whether the disinfectant residual was restored to at least 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) within 4 hours;

A.6. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8)(13) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002), amended LR 35:1244 (July 2009), LR 40:

§1135. Monthly Report

A. - B.5. …

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine) and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. the number of samples where the disinfectant residual is measured; and

b. the number of measurements where the disinfectant residual is less than 0.5 mg/l free chlorine or 0.5 mg/l chloramine residual (measured as total chlorine).

D. - F.2.a. …

AUTHORITY NOTE: Promulgated in accordance with R.S 40: 4 (A)(8)(13) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2526 (December 2002), amended LR 35:1244 (July 2009), LR 40:

Subchapter F. Public Notification

§1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §§1113 or 1141, or a failure to comply with the performance standards specified in §§1115, 1117, 1119.A or 1119.C of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language.

A.1. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:485 (March 2009), LR 35:1246 (July 2009), LR 40:

Chapter 15. Approved Chemical Laboratories/Drinking Water

Subchapter A. Definitions and General Requirements

§1503. General Requirements

A. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8)(13) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004), amended LR 40:

Interested persons may submit written comments to Jake Causey, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. He is responsible for responding to inquiries regarding this Emergency Rule.

Jimmy Guidry, M.D.
State Health Officer
and
Kathy H. Kliebert
Secretary

1403#025

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately March 6, 2014 in the following areas:

Those waters north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass of the Mississippi River eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and -89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and -89

degrees 23 minutes 00 seconds west longitude; and, those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass of the Mississippi River westward to -89 degrees 15 minutes 25 seconds west longitude; and, those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the western shore of South Pass of the Mississippi River westward to -89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and -89 degrees 15 minutes 25 seconds west longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and -89 degrees 10 minutes 15 seconds west longitude; and, those waters west of the western shore of South Pass of the Mississippi River south of 28 degrees 59 minutes 40 seconds north latitude bounded by the following coordinates: 1) 28 degrees 59 minutes 15 seconds north latitude and -89 degrees 08 minutes 15 seconds west longitude, 2) 28 degrees 58 minutes 20 seconds north latitude and -89 degrees 10 minutes 00 seconds west longitude, 3) 28 degrees 59 minutes 01 seconds north latitude and -89 degrees 11 minutes 00 seconds west longitude, 4) 28 degrees 59 minutes 40 seconds north latitude and -89 degrees 10 minutes 15 seconds west longitude; and, those waters east of the eastern shore of South Pass of the Mississippi River and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and -89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and -89 degrees 08 minutes 00 seconds west longitude; and, those waters adjacent to but not including Northeast Pass and Southeast Pass of the Mississippi River and bounded by the following coordinates: 1) 29 degrees 08 minutes 35 seconds north latitude and -89 degrees 04 minutes 20 seconds west longitude, 2) 29 degrees 08 minutes 15 seconds north latitude and -89 degrees 02 minutes 10 seconds west longitude, 3) 29 degrees 04 minutes 50 seconds north latitude and -89 degrees 04 minutes 10 seconds west longitude, 4) 29 degrees 05 minutes 30 seconds north latitude and -89 degrees 05 minutes 10 seconds west longitude; and, those waters south and west of Pass a Loutre of the Mississippi River and east of -89 degrees 05 minutes 35 seconds west longitude bounded by the following coordinates: 1) 29 degrees 11 minutes 25 seconds north latitude and -89 degrees 03 minutes 30 seconds west longitude, 2) 29 degrees 11 minutes 00 seconds north latitude and -89 degrees 02 minutes 25 seconds west longitude, 3) 29 degrees 09 minutes 00 seconds north latitude and -89 degrees 05 minutes 35 seconds west longitude, 4) 29 degrees 11 minutes 00 seconds north latitude and -89 degrees 05 minutes 35 seconds west longitude; and, those waters south of North Pass of the Mississippi River bounded by the following coordinates: 1) 29 degrees 11 minutes 35 seconds north latitude and -89 degrees 02 minutes 55 seconds west longitude, 2) 29 degrees 12 minutes 35 seconds north latitude and -89 degrees 01 minutes 05 seconds west longitude, 3) 29 degrees 11 minutes 35 seconds north latitude and -89 degrees 01 minutes 10 seconds west longitude, 4) 29 degrees 11 minutes 10 seconds north latitude and -89 degrees 02 minutes 00 seconds west longitude; and, those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and -89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and -89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and -89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and -89 degrees 57 minutes 20 seconds west longitude; and, those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude; and, that portion of state outside waters seaward a distance of one-half mile from the inside/outside shrimp line from the western shore of Caminada Pass at -90 degrees 02 minutes 46.597 seconds west longitude westward to the eastern shore of Belle Pass at -90 degrees 13 minutes 30 seconds west longitude; and that portion of state outside waters seaward a distance of one-half mile from the shoreline from the southwestern shore of Grand Terre Island 2 at -89 degrees 54 minutes 04 seconds west longitude; thence eastward along the shoreline to the southeastern shore of Grand Terre Island 2 at -89 degrees 51 minutes 39 seconds west longitude; thence eastward along 29 degrees 18 minutes 46 seconds north latitude to -89 degrees 51 minutes 19 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling, charter boat angling and the harvest of bait by wholesale/retail seafood dealers who hold a special bait dealers permit and who harvest bait for sale to recreational fishermen exclusively, pursuant to the provisions of LAC 76:VII.329 is allowed: those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and -89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and -89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and -89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and -89 degrees 57 minutes 20 seconds west longitude; and, those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude; and, that portion of state outside waters seaward a distance of one-half mile from the inside/outside shrimp line from the western shore of Caminada Pass at -90 degrees 02 minutes 46.597 seconds west longitude westward to the eastern shore of Belle Pass at -90 degrees 13 minutes 30 seconds west longitude; and, those state outside waters seaward a distance of one-half mile from the shoreline from the southwestern shore of Grand Terre Island 2 at -89 degrees 54 minutes 04 seconds west longitude; thence eastward along the shoreline to the southeastern shore of Grand Terre Island 2 at -89 degrees 51 minutes 39 seconds west longitude; thence eastward along

29 degrees 18 minutes 46 seconds north latitude to -89 degrees 51 minutes 19 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life.

The Commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein.

Billy Broussard
Chairman

1403#034

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Red Snapper Recreational Season Modification

The recreational season for the harvest of red snapper in Louisiana state waters has previously been set to open on the Saturday preceding Palm Sunday (April 12, 2014). The established season for the recreational harvest of red snapper as outlined in LAC 76:VII.335 is open on weekends only, where Friday, Saturday, Sunday, and the Monday of Memorial Day and the Monday of Labor Day are defined as a weekend day, through September 30 of each year. The bag and possession limit, as established in LAC 76:VII.335 is three red snapper per person per day. The season is hereby modified effective from 12:01 a.m. on February 21, 2014 until further notice to be open on weekends only, where Friday, Saturday, Sunday, and the Monday of Memorial Day and the Monday of Labor Day are defined as a weekend day, with a daily bag limit and possession limit of two red snapper per person at the currently established size limit of 16 inches minimum total length.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76.VII.335.G.5 to modify the recreational red snapper seasons and possession limits in Louisiana state waters when he deems necessary, the secretary hereby declares:

The recreational fishery for red snapper in Louisiana state waters will open at 12:01 a.m. on February 21, 2014 and be open on weekends only, where Friday, Saturday, Sunday, and the Monday of Memorial Day and the Monday of Labor Day are defined as a weekend day, and remain open until further notice. Effective with this modification the recreational daily harvest and the possession limit for red snapper shall be two red snapper per person at the currently established minimum size limit in LAC 76.VII.335 of 16 inches total length.

Robert Barham
Secretary

1403#006

Rules

RULE

Department of Economic Development
Office of Business Development

Economic Zone Program (LAC 13:I.Chapter 7)

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, has amended §§701-749 and adopted §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 June 21, 2013, qualification will be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification.

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 40:490 (March 2014).

§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 twelve 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 June 21, 2013, *employment baseline* will be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification.

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

i. a United States citizen domiciled in Louisiana, or who becomes domiciled in Louisiana within 60 days after hire date; and who is

ii. 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 7 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 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)-(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 40:491 (March 2014).

§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 40:493 (March 2014).

§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 40:494 (March 2014).

§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 40:494 (March 2014).

§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 40:494 (March 2014).

§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 40:494 (March 2014).

§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 June 21, 2013, the annual employee certification process will be performed in accordance with prior policy and practice in place at the time of the filing of the advance notification.

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 40:494 (March 2014).

§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 40:495 (March 2014).

§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 40:495 (March 2014).

§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 40:495 (March 2014).

§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 40:495 (March 2014).

§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 40:496 (March 2014).

§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 40:496 (March 2014).

§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 40:496 (March 2014).

§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 40:496 (March 2014).

§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 40:496 (March 2014).

§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 40:497 (March 2014).

§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 40:497 (March 2014).

§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 40:497 (March 2014).

§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 40:497 (March 2014).

§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 40:498 (March 2014).

§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 40:498 (March 2014).

§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 40:498 (March 2014).

§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 40:498 (March 2014).

Anne G. Villa
Undersecretary

1403#040

RULE

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, the Board of Elementary and Secondary Education has amended *Bulletin 133—Scholarship Programs*: §501, Finance. The 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 40:498 (March 2014).

Heather Cope
Executive Director

1403#007

RULE

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, the Board of Elementary and Secondary Education has amended *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 40:499 (March 2014).

§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 40:499 (March 2014).

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 40:499 (March 2014).

§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 40:499 (March 2014).

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 40:499 (March 2014).

§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 40:499 (March 2014).

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 40:499 (March 2014).

§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 40:499 (March 2014).

§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 40:500 (March 2014).

Heather Cope
Executive Director

1403#008

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Asbestos-Containing Materials in
Schools and State Buildings
(LAC 33:III.Chapter 27)(AQ329S)

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.2701, 2703, 2705, 2707, 2711, 2713, 2717, 2719, 2721, 2723, 2725, 2735, 2739, 2741 and 2799 (AQ329).

LAC 33:III.Chapter 27 requires local education agencies and the state government to identify friable and nonfriable asbestos containing material (ACM) in schools and state buildings by visually inspecting schools and develop management plans to manage the asbestos. This action is required to delete unnecessary language, clarify some language in the regulations and make necessary changes in order to help implement the programs. The basis and rationale for this Rule revision is to clarify language adopted from the federal regulations to ensure that the regulated community understands the requirements to protect public health when disturbing asbestos-containing materials. 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 27. Asbestos-Containing Materials (ACM) in Schools and State Buildings

§2701. Asbestos-Containing Materials (ACM) in Schools and State Buildings

A. - B.1. …

2. Except for the requirement to submit Form AAC-8 pursuant to LAC 33:III.2723.A, state buildings built after 1978 are exempt from the requirements of this Chapter if:

a. the state building is not used as a school building for the education of grades kindergarten through post-graduate; or

b. the state building does not contain asbestos as determined through review and approval of the Office of Environmental Services prior to occupancy of the building by:

i. a signed s*tatement(s) of no asbestos in construction* as defined in LAC 33:III.2703.A that addresses the entire building, and all additions and renovations; or

ii. an inspection report submitted in accordance with LAC 33:III.2707 as a result of an inspection stating that no asbestos is contained in, or on the outside of the state building, together with signed statement(s) of no asbestos in construction that address all additions and renovations conducted after the inspection; and

c. a copy of the department approval of any documents submitted pursuant to Subparagraph B.2.a. of this Subsection shall be maintained at the administrative office of the building.

3. Except for the requirement to submit Form AAC-8 pursuant to LAC 33:III.2723.A, state buildings built prior to 1979 are exempt from the requirements of this Chapter provided that:

a. the building is not used as a school building for the education of grades kindergarten through post-graduate;

b. prior to occupancy, the department reviews and approves documentation of one of the following:

i. the complete renovation of the state building after January 1, 1979 that complied with the following:

(a). an inspection conducted during the renovation that showed that all ACM was removed from the inside and the outside of the building; and

(b). no asbestos containing material was added in the renovations as documented by signed statement(s) of no asbestos in construction; or

ii. an inspection conducted in accordance with LAC 33:III.2707.A reveals that no asbestos is contained in or on the outside of the state building; and

c. no asbestos containing materials were added to the building subsequent to the inspection conducted pursuant to Clause B.3.b.i of this Section or the renovation conducted in accordance with Clause B.3.b.ii of this Section as documented by signed statement(s) of no asbestos in construction;

d. a copy of the documentation submitted pursuant to Subparagraphs B.3.b and c of this Section shall be submitted to the Office of Environmental Services; and

e. a copy of the documentation submitted pursuant to Subparagraphs B.3.b and c of this Section and department approval shall be maintained at the building administrative office.

C. Scope

1. This regulation requires local education agencies and the state government to identify friable and nonfriable ACM in schools and state buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this Rule. The regulation requires local education agencies and the state government to submit management plans to the Office of Environmental Services at least 30 days prior to

occupancy of any school or state building, and implement the plan within 180 days after occupancy.

2. If an exemption is requested for a state building that contains no asbestos, a determination supporting that exemption shall be submitted in accordance with Subparagraph B.2.b or 3.b of this Section.

3. Management plans submitted to and approved by the Department of Environmental Quality shall meet the inspection and assessment requirements of this Chapter.

4. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions including the design of those actions.

5. The regulation also includes recordkeeping requirements.

6. Local education agencies and the state government may contractually delegate their duties under this Rule, but they remain responsible for the proper performance of those duties.

7. Local education agencies and the state government are encouraged to consult with the Office of Environmental Compliance of the Department of Environmental Quality for assistance in complying with this Rule.

8. Local education agencies and the state government shall provide for the transportation and disposal of asbestos in accordance with provisions of LAC 33:III.Chapter 51, Subchapter M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:1056 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:698 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:500 (March 2014).

§2703. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 and LAC 33:III.5151.B of these regulations with the exception of those terms specifically defined in this Section as follows.

* * *

Accredited or *Accreditation*—when referring to a person, *accreditation* by the Department of Environmental Quality under the provisions of LAC 33:III.2799 and when referring to a laboratory, *accreditation* under the provisions of LAC 33:I, Subpart 3, Chapters 45-59.

* * *

Asbestos-Containing Material (ACM)—when referring to schools or state buildings, any material or product which contains more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy.

* * *

Category I Nonfriable ACM—asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy that when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Category II Nonfriable ACM—any material, excluding category I nonfriable ACM, containing more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Damaged Floor Covering that Contains ACM—resilient floor covering or the mastic used to attach it to the floor surface that contains ACM which has deteriorated or sustained physical impact such that the internal structure (cohesion) of the material is inadequate or, if applicable, which has delaminated such that its bond to the substrate (adhesion) is inadequate or which for any other reason lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from the substrate; flaking, blistering or crumbling of the ACM surface; water damage; significant or repeated water stains; scrapes, gouges, or mars; or other signs of physical impact on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.

* * *

Facility Component—any part of a facility, including equipment, that is under the control of a local education agency or the state.

* * *

Friable Asbestos-Containing Material (ACM)—any material containing more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy, which has been applied on ceilings, walls, structural members, piping, duct work, or any other part of the building, which when dry, may be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), the asbestos content can be verified by point counting using PLM or assume the amount to be greater than 1 percent and treat the material as ACM.

* * *

Guest Instructor—an individual with expertise in a specific non-asbestos field who is designated by the RATP or principal trainer to provide instruction specific to certain course topics (i.e., law, medicine, etc.).

* * *

Inspection—any activity undertaken in a school building, or a state building, to determine the presence or location, or to assess the condition of friable or nonfriable asbestos-containing material (ACM), whether by visual or physical examination, or by collecting samples of such material. This term includes reinspections of friable and nonfriable known or assumed ACM which has been previously identified. The term does not include the following:

a. - b. …

c. visual inspections of the type described in LAC 33:III.2717.J solely for the purpose of determining completion of response actions.

Local Education Agency—

a. a public board of education or other authority legally constituted within Louisiana for either administrative control or direction of, or to perform a service function for, public or private; profit or nonprofit; day, night, or residential schools; elementary or secondary schools, colleges, graduate, medical, dental, or post-graduate education institutions;

b. the governing authority of any elementary or secondary school, college, or post-graduate education institution.

* * *

Operations and Maintenance Program (O and M)—a program of work practices to maintain regulated ACM in good condition, ensure cleanup of asbestos fibers previously released, and prevent further release by minimizing and controlling disturbance or damage of regulated ACM.

* * *

Principal Trainer—the trainers recognized by the department and identified by the RATP in its application for recognition to provide instruction in asbestos training courses (e.g., inspector, etc.).

* * *

Recognized Asbestos Training Provider (RATP)—a person or organization recognized by the department, to provide training related to asbestos activities conducted in Louisiana.

Regulated Asbestos-Containing Material (RACM)—

a. friable asbestos material;

b. category I and II nonfriable ACM that has become friable such as asbestos-cement material that is not removed from a facility prior to demolition;

c. category I and II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, ground, sanded, cut, abraded, or reduced to powder by the forces that have acted or are expected to act on the material in the course of demolition or renovation operations; or

d. resilient floor covering or the asbestos-containing mastic used to attach it to the floor surface that is scraped, sanded, abraded, bead blasted, cut, ground, crumbled, pulverized, or reduced to powder by any means, including hand and mechanical equipment. This definition does not include resilient floor covering removed by using dry ice, heat, wet methods, and chemicals where the tiles or sheeting are removed intact (minor tears or minor breakage is acceptable where, for all intents and purposes, the flooring is considered whole) or asbestos-containing mastic that has been removed by chemical or other means that results in the asbestos fibers in ACWM being bound within a macro substrate and cannot reasonably become airborne unless further forces are applied.

* * *

Related Scientific Field—animal science, biological sciences, chemistry, geosciences, atmospheric sciences, soil sciences, physical geography, physics, health sciences, toxicology, environmental sciences, wildlife and fisheries sciences, engineering, nuclear science, agronomy, forestry, health physics, medical physics, or statistics and quantitative methods.

* * *

Resilient Floor Covering—asbestos-containing floor tiles, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined by using polarized light microscopy according to the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy.

* * *

Response Action—a method, including removal, encapsulation, enclosure, repair, operations, and maintenance, that protects human health and the environment from regulated ACM.

Responsible Official—

a. for a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

b. for a partnership or sole proprietorship: a general partner or the proprietor, respectively. If a general partner is a corporation, the provisions of Subparagraph a of this definition apply; or

c. for a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the chief executive officer having a responsibility for the overall operations of a principal geographic unit of the agency.

* * *

School—any profit or nonprofit; public or private; day, night, or residential school that provides elementary, including head start and pre-K programs located on elementary school campuses, secondary, college, graduate, medical, dental, or post-graduate education, as determined under state law, or any school of any agency of the United States. Schools do not include locations where the primary purpose is not the education of students, but that provide for internships or other on the job training.

School Building—

a. - e. …

f. any exterior structure, portico or covered exterior hallway or walkway and any exterior portion of a mechanical system used to condition interior space.

Significantly Damaged Floor Covering that Contains ACM—damaged floor covering that contains ACM where the damage is extensive and severe.

* * *

Small-Scale, Short-Duration Activities (SSSD)—tasks that involve less than or equal to 3 square feet or 3 linear feet of ACM.

State Building—a building, or portion thereof, owned, used, or leased by the state of Louisiana. If the state does not own, lease, occupy, or use the entire building, the *state building* shall be only:

a. that portion of the building, owned, leased, occupied, or used by the state;

b. facility components as defined in LAC 33:III.2703;

c. work areas, kitchens, restrooms, and other common areas that are co-owned, leased, or used by the state together with others; and

d. any other portion of the building that shares a common heating, ventilation, and air conditioning (HVAC) system or common ingress/egress points with that portion of the building owned, leased, occupied or used by the state.

State Government—the state of Louisiana and any state agency as defined in R.S. 13:5102 that owns, leases, occupies, or uses the state building.

State of Louisiana or *State*—the *state of Louisiana* or any *state* agency as defined in R.S. 13:5102.

Statement(s) of No Asbestos in Construction—

a. a signed written statement, by an architect, project engineer, or other principal responsible for the construction or renovation of the building, or a portion thereof, that no ACM was specified as a building material in the applicable construction documents for the building, or portion thereof (multiple signatures may be necessary to address the entire building); or

b. a signed written statement by an accredited asbestos inspector who has conducted a thorough review of documents related to the construction or renovation of the building that no ACM was specified as a building material in the construction documents for the building, including all subsequent additions or renovations.

* * *

Training Hour—at least 50 minutes of actual teaching including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

Training Manager—the individual responsible for administering a training program and monitoring the performance of the principal trainers and guest instructors; either serves as the signatory for training certificates or may designate other responsible individuals in the organization, or trainers as signatories.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of the Secretary, Legal Division, LR 40:501 (March 2014).

§2705. General Local Education Agency, State, or Local Government Responsibilities

A. - A.7. …

8. ensure that the person designated under Paragraph A.7 of this Section receives training from a recognized instructor qualified to provide training to perform duties assigned under this Section. Such training shall provide, as necessary, basic knowledge of:

8.a. - 9.…

B. The requirements of this Chapter in no way supersede the worker protection and work practice requirements under 29 CFR 1910.1001 (Occupational Safety and Health Administration [OSHA] asbestos worker protection standards for general industry), 1926.1101 (OSHA asbestos worker protection standards for construction), 40 CFR part 763, subpart G (EPA asbestos worker protection standards for public employees), LAC 33:III.2799, Appendix A, and LAC 33:III.Chapter 51, Subchapter M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended by the Office of the Secretary, Legal Division, LR 40:503 (March 2014).

§2707. Inspection and Reinspections

A. Inspection

1. Except as provided in LAC 33:III.2701.B.2 and 3, and LAC 33:III.2735, each local education agency and the state government shall inspect each school or state building that they lease, own, occupy, or use to identify all locations of friable and nonfriable ACBM as specified in this Section and LAC 33:III.2701.C.1.

2. Any building leased or acquired that is to be used as a school or state building shall be inspected as described under Paragraphs A.3, 4, and 5 of this Section prior to use as a school or state building.

3. In the event that emergency use of an uninspected building as a school or state building is necessitated, such buildings shall be inspected within 30 days after the decision to use them.

4. Each inspection of a school or state building shall be made by an accredited inspector.

5. For each area of a school or state building, except as excluded under LAC 33:III.2735, each person performing an inspection shall:

a. visually inspect the area to identify the locations of all suspected ACM;

b. touch all suspected ACM to determine whether it is friable;

c. identify all homogeneous areas of friable suspected ACM and all homogeneous areas of nonfriable suspected ACM;

d. assume that some or all of the homogeneous areas are ACM, and for each homogeneous area that is not assumed to be ACM, collect and submit for analysis bulk samples under LAC 33:III.2709 and 2711;

e. assess, under LAC 33:III.2713, friable material in areas where samples are collected, friable material in areas that are assumed to be ACM, and friable ACM identified during a previous inspection; and

f. prepare a report that includes the necessary information and submit to the person designated under LAC 33:III.2705 a copy of such report for inclusion in the management plan within 30 days of the inspection. The report shall include:

i. the date of the inspection signed by each accredited person making the inspection, and a copy of each inspector's accreditation certificate current at the time of inspection;

ii. an inventory of the locations of the homogeneous areas where samples were collected, exact locations where each bulk sample is collected, dates that samples are collected, homogeneous areas where friable suspected ACBM is assumed to be ACM, and homogeneous areas where nonfriable suspected ACBM is assumed to be ACM;

iii. a description of the manner used to determine sampling locations, and the name and signature of each

accredited inspector who collected the samples and a copy of the inspector's accreditation certificate current at the time of inspection;

iv. a list of whether the homogeneous areas identified under Subparagraph A.5.d of this Section are surfacing material, thermal system insulation, or miscellaneous material; and

v. assessments made of friable material pursuant to Subparagraph A.5.e of this Section, the names and signatures of all accredited inspectors making the assessment, and a copy of the inspector's accreditation certificate current at the time of inspection.

B. Reinspection

1. At least once every three years after a management plan is in effect, each local education agency shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building that they lease, own, or use for head start, pre-K programs, elementary, or secondary education.

1.a. - 3.g. …

h. record the following and submit to the person designated under LAC 33:III.2705 a copy of such record for inclusion in the management plan within 30 days of the reinspection:

i. the date of the reinspection, the name and signature of the person making the reinspection, a copy of his or her accreditation certificate current at the time of the reinspection, and any changes in the condition of known or assumed ACBM;

ii. the exact locations where samples are collected during the reinspection, a description of the manner used to choose sampling locations, the name and signature of each accredited inspector who collected the samples, a copy of the accreditation certificate current at the time of the reinspection; and

iii. any assessments or reassessments made of friable material, the name and signature of the accredited inspector making the assessments, and a copy of accreditation certificate current at the time of assessment or reassessment.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1222 (August 2001), amended by the Office of the Secretary, Legal Division, LR 40:503 (March 2014).

§2711. Analysis

A. Local education agencies and the state government shall have bulk samples, collected under LAC 33:III.2709, and air samples collected under LAC 33:III.2717, and submitted for analysis, analyzed for asbestos using laboratories accredited under the provisions of LAC 33:I, Subpart 3, Chapters 45-59.

B. Bulk samples shall not be composited for analysis and shall be analyzed for asbestos content by polarized light microscopy (PLM), using the "interim method for the determination of asbestos in bulk insulation samples," found at 40 CFR part 763 subpart E, appendix E.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended LR 22:699 (August 1996), amended by the Office of the Secretary, Legal Division, LR 40:504 (March 2014).

§2713. Assessment

A. The local education agency or state government shall have an accredited inspector provide the following.

1. …

2. Each accredited inspector providing a written assessment shall sign and date the assessment, include a copy of his or her accreditation certificate current at the time of assessment and submit a copy of the assessment to the person designated under LAC 33:III.2705 for inclusion in the management plan within 30 days of the assessment.

B. - C.6. …

D. The local education agency or the state government shall select a person accredited to develop management plans to review the results of each inspection, reinspection, and assessment for the school or state building and to conduct any other necessary activities in order to recommend in writing to the local education agency or the state government appropriate response actions. The accredited person shall sign and date the recommendation, provide a copy of his or her accreditation certificate current at the time of management plan development or other action, and submit a copy of the recommendation to the person designated under LAC 33:III.2705.A.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended by the Office of the Secretary, Legal Division, LR 40:504 (March 2014).

§2717. Response Actions

A. The local education agency or the state government shall select and implement in a timely manner the appropriate response actions in this Section consistent with the assessment conducted in LAC 33:III.2713. The response actions selected shall be sufficient to protect human health and the environment. The local education agency or the state government may then select, from the response actions which protect human health and the environment, that action which is the least burdensome method. Nothing in this Section shall be construed to prohibit removal of ACBM from a school or state building at any time, should removal be the preferred response action of the local education agency or the state government. If any damaged or significantly damaged thermal system insulation, friable surfacing ACM or miscellaneous ACM is present, the local education agency or the state government shall:

1. immediately isolate the area with the damaged or significantly damaged thermal system insulation, and restrict

access to protect human health and the environment until the response action is completed; and

2. perform any response actions in accordance with appropriate requirements as provided in LAC 33:III.5151.

B. If damaged or significantly damaged thermal system insulation ACM is present in a building, the local education agency or the state government shall:

1. repair the damaged area;

2. remove the damaged material if it is not feasible, due to technological factors, to repair the damage; and

3. maintain all thermal system insulation ACM and its covering in an intact state and undamaged condition.

C. Selection of Response Action for Damaged ACM

1. If damaged friable surfacing ACM or damaged friable miscellaneous ACM or damaged floor covering that contains ACM is present in a school or state building, the local education agency, or the state government shall select from among the following response actions: encapsulation, enclosure, removal, or repair of the damaged material.

2. In selecting the response action from among those that meet the definition in LAC 33:III.2703 and, the local education agency or the state government shall determine which of these response actions protects human health and the environment. For purposes of determining which of these response actions are the least burdensome, the local education agency or the state government may then consider local circumstances, including occupancy and use patterns within the school or state building, and its economic concerns, including short- and long-term costs.

D. Selection of Response Action for Significantly Damaged ACM

1. If significantly damaged friable surfacing ACM or significantly damaged friable miscellaneous ACM or significantly damaged floor coverings as defined in LAC 33:III.2703.A that contain ACM is present in a school or state building, the local education agency or the state government shall remove the material in the functional space, or depending upon whether enclosure or encapsulation would be sufficient to protect human health and the environment, enclose or encapsulate.

E. If any friable surfacing ACM, thermal system insulation ACM friable miscellaneous ACM, or floor coverings that contain ACM that has potential for damage is present in a building, the local education agency or the state government shall at least implement an operations and maintenance (O and M) program, as described under LAC 33:III.2719.

F. If any friable surfacing ACM, thermal system insulation ACM, friable miscellaneous ACM, or any floor covering that contains ACM that has potential for significant damage is present in a building, the local education agency or the state government shall:

1. - 3. …

G. A response action related to removal of floor coverings that contain ACM in a school or state building shall follow the requirements of this Section and those requirements related to renovations in LAC 33:III.5151.F and J.

H. Response actions including removal, encapsulation, enclosure, or repair, other than SSSD repairs, shall be designed, supervised and conducted by persons accredited to design, supervise and conduct response actions.

I. Local education agencies and the state government shall comply with either the OSHA asbestos worker protection for general industry at 29 CFR 1910.1001 or the asbestos construction standard at 29 CFR 1926.1101, whichever is applicable.

J. Completion of Response Actions

1. At the conclusion of any action to remove, encapsulate, or enclose ACBM or material assumed to be ACBM, a person designated by the local education agency or the state government, shall visually inspect each functional space where such action was conducted to determine whether the action has been properly completed.

2. The following requirements apply to collection and analysis of air samples.

a. A person designated by the local education agency or the state government shall collect air samples using aggressive sampling as described in EPA regulations contained in 40 CFR part 763, subpart E, appendix A to monitor air for clearance after each removal, encapsulation, and enclosure project involving ACBM, except for SSSD projects.

b. Local education agencies and the state government shall have air samples collected under this Section analyzed for asbestos using laboratories accredited by the Department of Environmental Quality according to LAC 33:I, Subpart 3, Chapters 45-59, to conduct such analysis using phase contrast microscopy (PCM) and transmission electron microscopy (TEM) equipped with an energy dispersive x-ray analysis system or, under circumstances permitted in this Section.

3. Except as provided in Paragraph J.4, 5, or 7 of this Section, an action to remove, encapsulate, or enclose ACBM shall be considered complete when the average concentration of asbestos of five air samples collected within the affected functional space and analyzed by the TEM method contained in EPA regulations 40 CFR part 763, subpart E, appendix A is not statistically significantly different, as determined by the Z-test calculation found in EPA regulations 40 CFR part 763, subpart E, appendix A from the average asbestos concentration of five air samples collected at the same time outside the affected functional space and analyzed in the same manner, and the average asbestos concentration of the three field blanks described in EPA regulations, 40 CFR part 763, subpart E, appendix A is below the filter background level of 70 structures per square millimeter (70 s/mm^2).

4. An action may also be considered complete if the volume of air drawn for each of the five samples collected within the affected functional space is equal to or greater than 1,199 L of air for a 25-mm filter or equal to or greater than 2,799 L of air for a 37-mm filter, and the average concentration of asbestos as analyzed by the TEM method in EPA regulations, 40 CFR part 763, subpart E, appendix A for the five air samples does not exceed the filter background level of 70 structures per square millimeter (70 s/mm^2). If the average concentration of asbestos of the five air samples within the affected functional space exceeds 70 s/mm^2, or if the volume of air in each of the samples is less than 1,199 L of air for a 25-mm filter or less than 2,799 L of air for a 37-mm filter, the action shall be considered complete only when the requirements of Paragraph J.3 or 5 of this Section are met.

5. At any time, a local education agency or the state government may analyze air monitoring samples collected for clearance purposes by phase contrast microscopy (PCM) to confirm completion of removal, encapsulation, or enclosure of ACBM that is greater than SSSD and less than or equal to 64 square feet or 60 linear feet. The action shall be considered complete when the results of samples collected in the affected functional space and analyzed by PCM using the National Institute for Occupational Safety and Health (NIOSH) Method 7400 entitled "Fibers" published in the *NIOSH Manual of Analytical Methods*, 3rd Edition, Second Supplement, August 1987, show that the concentration of fibers for each of the five samples is less than or equal to a limit of quantitation for PCM (0.01 fibers per cubic centimeter [0.01 f/cm^3] of air). A description of the method is available at the Office of the Federal Register information center. The method is incorporated as it exists on the effective date of this Rule, and a notice of any change to the method will be published in the *Louisiana Register*.

6. To determine the amount of ACM affected under Paragraph J.5 of this Section, the local education agency or the state government shall add the total square or linear footage of ACM within the containment barriers used to isolate the functional space for the action to remove, encapsulate, or enclose the ACM. Contiguous portions of material subject to such action conducted concurrently or at approximately the same time within the same school or state building shall not be separated to qualify under Paragraph J.5 of this Section.

7. In the case of a demolition of a school or state building where occupants will not reenter the building, clearance sampling is not required.

K. Response actions in a school building, state building, or public and commercial building including removal, encapsulation, enclosure, or repair, other than SSSD shall be designed, supervised, and conducted by persons accredited to perform such activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of the Secretary, Legal Division, LR 40:504 (March 2014).

§2719. Operations and Maintenance

A. Applicability. The local education agency or the state government shall implement and maintain an operations, maintenance, and repair (O and M) program under this Section whenever any friable ACM is present or assumed to be present in a building that it leases, owns, or otherwise uses as a school or state building. Any material identified as nonfriable ACM or nonfriable assumed ACM shall be treated as friable ACM for the purposes of this Section when the material is about to become friable as a result of activities performed in the school or state building.

B. Worker Protection. Local education agencies and the state government shall comply with either the OSHA asbestos worker protection for general industry at 29 CFR 1910.1001 or the asbestos construction standard at 29 CFR 1926.1101, whichever is applicable. Local education agencies and the state government may consult EPA regulations contained in 40 CFR 763, subpart E if their employees are performing small-scale operations, maintenance, and repair activities of short-duration.

C. - D.5. …

6. Place the asbestos debris and other cleaning materials in sealed, clear, leak-tight containers properly labeled as may be required by LAC 33:III.5151.F.

E. Maintenance Activities other than Small-Scale, Short-Duration. Maintenance activity that disturbs friable ACM in a school building, state building, or public and commercial building including removal, encapsulation, enclosure, or repair, other than SSSD shall be designed, supervised, and conducted by persons accredited to perform such activities.

F. Fiber Release Episodes

1. - 1.b. …

c. Place the asbestos debris in a sealed, leak-tight container properly labeled as may be required by LAC 33:III.5151.F.

1.d. - 2.c. …

3. A response action to a major fiber release in a school building, state building, including removal, encapsulation, enclosure, or repair, other than SSSD shall be designed, supervised, and conducted by persons accredited to perform such activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:2090 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:506 (March 2014).

§2721. Training and Periodic Surveillance

A. - A.2.b. …

c. the provisions of this Section and LAC 33:III.2717, LAC 33:III.2799, Appendix A, regulations contained in LAC 33:III.Chapter 51, Subchapter M, EPA regulations contained in 40 CFR 763, subpart G, and OSHA regulations contained in 29 CFR 1926.1101; and

2.d. - 4. …

B. Periodic Surveillance

1. At least once every six months after a management plan is in effect, each local education agency or the state government shall conduct periodic surveillance in each building that it leases, owns, or uses as a school or state building that contains ACBM or is assumed to contain ACBM.

2. - 2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1222 (August 2001), amended by the Office of the Secretary, Legal Division, LR 40:506 (March 2014).

§2723. Management Plans

A. Local education agencies or the state government shall submit Form AAC-8 concerning management plans for the following buildings. Local education agencies and the state government are exempt from the requirement to develop and submit a management plan in connection with Form AAC-8 if there has been a determination that there is no asbestos present in the building in accordance with LAC 33:III.2735.A.3, 4, 6, and 7.

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or used as school or state buildings, and submit the plan to the Office of Environmental Services. After June 20, 1994, the original submittal of each plan shall be submitted at least 30 days prior to its use as a school or state building using the Form AAC-8, required elements for asbestos management plans (latest revised form can be obtained from the Office of Environmental Services or through the department's website. The plan may be submitted in stages, if applicable that cover portions of the school or state building under the authority of the local education agency or the state government as specified in LAC 33:III.2701.C.1.

2. If a building to be used as part of a school or is leased or acquired, the local education agency shall include the additional building in the management plan for the school prior to its use as a school. The revised portions of the management plan shall be submitted to the Office of Environmental Services.

3. If a local education agency or the state government begins to use a building as a school or state building more than 90 days after promulgation of this regulation, the local education agency or the state government shall submit a management plan for the school or state building to the Office of Environmental Services prior to its use as a school or state building. Each plan developed or modified after June 20, 1994, shall include Form AAC-8, required elements for management plans.

B. Each local education agency or the state government shall implement its management plan within 180 days after occupancy.

C. Each local education agency or the state government shall maintain and update its management plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities. All provisions required to be included in the management plan under this Section shall be retained as part of the management plan (by either hard copy, or as an electronic file), as well as any information that has been revised to bring the plan up-to-date.

D. The management plan shall be developed by a management planner accredited by the department at the time the work was performed, and shall include the following.

1. - 2.e. …

3. The following shall be included for each inspection and reinspection conducted under LAC 33:III.2707:

a. the date of the inspection or reinspection, the name and signature, and a copy of the accreditation certificate current at the time of inspection of each accredited inspector performing the inspection or reinspection;

b. …

c. a description of the manner used to determine sampling locations, and the name and signature of each accredited inspector collecting samples, and a copy of the accreditation certificate current at the time of inspection;

d. a copy of the analyses of any bulk samples collected and analyzed, the name and address of any laboratory that analyzed bulk samples, a statement that the laboratory meets the applicable requirements of LAC 33:III.2711.A, the date of analysis, the name and signature of the person performing the analysis, and a copy of the laboratory accreditation certificate; and

e. a description of assessments, required under LAC 33:III.2713, of all ACBM and suspected ACBM assumed to be ACM, and the name, signature, and a copy of the accreditation certificate current at the time of inspection of each accredited person making the assessments.

4. The name, address, and telephone number of the person designated under LAC 33:III.2705 to ensure that the duties of the local education agency are carried out, the identity and qualifications of the person providing the training to the person designated, a description of and documentation of the training provided, and dates and training hours taken by that person to carry out the duties shall be included.

5. The recommendations made to the local education agency regarding response actions under LAC 33:III.2713.D, and the name, and signature of each person making the recommendations, and a copy of the accreditation certificate current at the time shall be included.

6. …

7. With respect to the person or persons who inspected for ACBM and who will design or carry out response actions, except for operations and maintenance, with respect to the ACBM, a statement that the person(s) is accredited under the provisions in LAC 33:III.2799, Appendix A and a copy of the accreditation certificate current at the time shall be included.

8. A detailed description in the form of a blueprint, diagram, or in writing of any ACBM or suspected ACBM assumed to be ACM that remains in the school or state building once response actions are undertaken pursuant to LAC 33:III.2717 shall be included. This description shall be updated as response actions are completed.

D.9. - F.3. …

4. Upon submission of its management plan and at least once each year, the local education agency or the state government shall provide notice to parents, teachers, and employees of the availability of management plans by one or more of the following: letter, e-mail, text message, or website post. The management plan shall include a description of the steps taken to provide notice and a dated copy of the notification.

G. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000),

amended by the Office of Environmental Assessment, LR 30:2021 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:2090 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:507 (March 2014).

§2725. Recordkeeping

A. Records required under this Section shall be maintained in a centralized location in the administrative office of the school, state building, local education agency, or state government as part of the management plan. The records may be kept in hard copy or electronic format providing all necessary information and documentation (e.g., signature) is included. For each homogeneous area where all ACBM has been removed, the local education agency or the state government shall ensure that such records are retained for three years after the next reinspection required under LAC 33:III.2707.B.1, or for an equivalent period.

B. For each preventive measure and response action taken for friable and nonfriable ACBM and friable and nonfriable suspected ACBM assumed to be ACM, the local education agency or the state government shall provide:

1. a detailed written description of the measure or action, including methods used, the location where the measure or action was taken, reasons for selecting the measure or action, start and completion dates of the work, names and addresses of all contractors involved, accreditation numbers of contractors at the time of the action, and if ACBM is removed, the name and location of the storage or disposal site of the ACM; and

2. the name and signature of any person collecting any air sample required to be collected at the completion of certain response actions specified by LAC 33:III.2717.J, the locations where samples were collected, date of collection, the name and address of the laboratory analyzing the samples, the date of analysis, the results of the analysis, the method of analysis, the name and signature of the person performing the analysis, and a statement that the laboratory meets the applicable requirements of LAC 33:III.2717.J.2.b, and a copy of the laboratory accreditation certificate.

C. - H. …

I. For the person designated under LAC 33:III.2705.A.7, the local education agency or state government shall provide the person's name, job title, the date training was received, the name and qualifications of the person providing the training to the designated person, a description and documentation of the training provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended by the Office of the Secretary, Legal Division, LR 40:508 (March 2014).

§2735. Exclusions

A. - A.6. …

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Office of Environmental Services and shall complete applicable portions of Form AAC-8 (pages 1, 4, and 5) to serve as that portion of the management plan for that school.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:2090 (October 2007), Office of the Secretary, Legal Division, LR 40:508 (March 2014).

§2739. Agent Accreditation

A. Applicability. The provisions of this Section are applicable to all persons who are involved in abatement, disposal, and/or maintenance involving friable ACM in schools, and state buildings.

B. - B.2. …

3. Workers who are engaged in maintenance that disturbs more than 3 square or linear feet of ACBM which does involve its actual removal, enclosure, repair, or encapsulation shall receive their initial and refresher training from a recognized training provider in accordance with these regulations. This training shall be in accordance with the asbestos abatement worker course as described in LAC 33:III.2799, Appendix A, Paragraph B.5, Initial Training and Subsection D, Refresher Training Courses. Workers who participate in the type of project described in this Paragraph shall be accredited in accordance with LAC 33:III.2799, Appendix A and shall work under the close direction of an accredited supervisor during any work they perform.

4. Supervisors who are directing workers who may disturb ACM shall receive their initial and refresher training in accordance with LAC 33:III.2799, Appendix A, Paragraph B.4, and Subsection D, Refresher Training Courses from a recognized training provider in accordance with these regulations. Supervisors who participate in the type of project referenced in this Paragraph are responsible for ensuring that:

4.a. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of the Secretary, Legal Division, LR 40:508 (March 2014).

§2741. Recognized Asbestos Training Providers (RATP) and Principal Trainers

A. The *recognized asbestos training providers* (*RATP)* as defined in LAC 33:III.2703.A and its principal trainers shall comply with and direct others to comply with LAC 33:III.Chapters 27 and 51, and other applicable federal, state, and local regulations.

B. Asbestos Training Course Requirements. The courses conducted by the RATP and its principal trainers shall meet the following requirements.

1. Training courses shall:

a. meet the requirements of LAC 33:III.2799, Appendix A and TSCA title II; and

b. be directed to the training materials and be conducted in a professional manner.

2. Initial training courses shall:

a. include a minimum of two training hours of instruction as provided in LAC 33:III.Chapters 27 and 51; and

b. be taught according to the criteria and length of time as specified in LAC 33:III.2799, Appendix A, Subsection A.

3. Refresher training courses shall be taught according to the criteria and length of time as specified in LAC 33:III.2799, Appendix D.

4. Principal Trainers. The principal trainer shall not be a student in the course.

5. Training in a Foreign Language

a. The training materials used shall be written in the language used for teaching the class.

b. The principal trainer shall be fluent in the language in which the class is being taught to the students.

c. Each student taking the class shall be fluent in the language used by the principal trainer.

6. Training Facility. The instruction room shall be housed in a commercial or industrial type setting.

a. The room shall be set up in classroom style setting with an instruction board for the principal trainer to write on, seats, and flat writing surfaces for the students.

b. The size of the room shall be adequate for instruction, including presentation equipment and hands on training.

7. The principal trainers may utilize guest instructors.

8. Training Materials

a. Audio-visual methods, such as the use of overheads, slides, and projectors may be used as supplemental training materials.

b. The training materials shall be applicable to the class being taught and include the latest version of the course materials submitted to the department with the initial or renewal application.

c. The training materials shall include the most current versions of the DEQ forms posted on the department's website.

9. Each student shall be provided with a face photo to attach to his or her application for accreditation.

10. Training Audits

a. Training course providers and principal trainers shall permit representatives of EPA or the department to attend, evaluate, and monitor any training course without charge.

b. Unannounced audits may be conducted by the department to ensure compliance with federal and state requirements for specific training courses.

C. Training Completion Certificates

1. Unique sequentially-numbered certificates shall be issued to students who successfully pass the training course. The certificate shall include:

a. student's name;

b. form of photo identification and associated number, (e.g., driver's license or state identification card);

c. the course completed and whether it is initial or refresher training;

d. dates of the training course and the examination;

e. expiration date for training that is one year after the date on which the student completed the course;

f. language in which the course was taught;

g. original signature of the principal trainer(s);

h. the name, address, and telephone number of the RATP;

i. the discipline for which training was received; and

j. a statement that the person receiving the certificate has completed the requisite training for asbestos accreditation as required under this LAC 33:III.2799, Appendix A and the TSCA title II.

2. RATP who provide refresher training shall provide training completion certificates in accordance with Subparagraph C.1.a-j of this Section, except the examination date may be omitted.

D. Recordkeeping Requirements of RATP. All RATP shall comply with the following minimum recordkeeping requirements.

1. Training Course Materials. A RATP shall retain copies of all instructional materials used in the delivery of the classroom training such as student manuals, principal trainer notebooks, and handouts.

2. Principal Trainer Qualifications. A RATP shall retain copies of all principal trainers' résumés, and the documents approving each principal trainer issued by the department in advance whenever it changes course principal trainers. Records shall accurately identify the principal trainers who taught each particular training course for each date that a course is offered.

3. Examinations. A RATP shall document that each person who receives an accreditation certificate for an initial training course has achieved a passing score on the examination. These records shall clearly indicate the date upon which the exam was administered, the training course and discipline for which the exam was given, the name of the person who proctored the exam, a copy of the exam, and the name and test score of each person taking the exam. The topic and dates of the training course shall correspond to those listed on that person's accreditation certificate.

4. Training Certificates. The RATPs shall maintain records that document the names of all persons who have been awarded certificates, their certificate numbers, the disciplines for which accreditation was conferred, training and expiration dates, and the training location. The RATP shall maintain the records in a manner that allows verification by telephone of the required information.

5. The RATP shall maintain all required records for a minimum of three years. The RATP, however, may retain these records for a longer period of time.

6. The RATP shall allow reasonable access to all of the records required by LAC 33:III.2799, Appendix A, and to any other records which may be required for the approval of asbestos RATPs or the accreditation of asbestos training courses to both EPA and to state agencies on request.

7. If a RATP ceases to conduct training, the RATP shall notify DEQ and give the department the opportunity to take possession of the provider's asbestos training records.

E. RATP Notifications

1. The RATP shall notify the Office of Environmental Services of any change in status of the training organization, (e.g., pending fines, notices of violation, changes in principal trainer status, etc.).

2. The RATP shall notify the Office of Environmental Services of the courses that will be taught, including where, when, and who will conduct the class.

a. The course notification shall include the address of all of the physical locations where the training will be held and the dates for each location.

b. The course notification form shall include the name of each principal trainer for each training course.

c. The course notification shall be received in writing, fax, via email, or other methods of submittal approved by the Office of Environmental Services at least five working days prior to class commencement, or one working day prior to class commencement, if only the Louisiana regulations course will be taught.

3. Notification of cancellation of classes, rescheduling, or amendment of notification shall:

a. be received in writing, fax, via email, or other methods of submittal approved by the Office of Environmental Services one day before the class should have commenced; and

b. indicate the date and time of the course that is being cancelled, rescheduled or amended;

c. rescheduled classes or amended notifications shall also indicate the changes that are being requested. This includes, but is not limited to day, time, locations, principal trainer, etc.

4. Within 10 working days of the completion of a class, the following shall be received by the Office of Environmental Services in a format approved by the department:

a. a complete roster of trainees and each principal trainer participating in the course;

b. a class photograph with a legible name on the back or at the bottom identifying each student and principal trainer;

c. each student's official identification number (e.g., driver's license, state identification card, or passport);

d. a 1" x 1 1/4" photograph of the face (front view) of each student;

e. the name of each principal trainer who taught the class; and

f. each student's examination grades.

i. If a student fails an initial exam, the roster shall include the word "failed" adjacent to the name on the roster.

ii. If a student retakes a previously failed exam, a separate notification shall be received by the Office of Environmental Services within five working days of the exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 40:508 (March 2014).

§2799. Appendix A—Agent Accreditation Plan

A. Purpose. Training requirements for purposes of accreditation are specified in both terms of required subjects of instruction and in terms of length of training. The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive training hours, including breaks and lunch. Course instruction shall be provided either by DEQ RATPs or from training providers recognized by EPA or an EPA authorized state. The training requirements that follow are for the training of persons required to have accreditation under the Toxic Substances Control Act (TSCA) title II and LAC 33:III.2739.

1. Initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors and workers, hands-on training shall include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training shall permit all supervisors and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training shall include conducting a simulated building walk-through inspection and respirator fit testing.

2. Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACM, or suspect ACM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

B. Initial Training. The following are the initial training course requirements for persons required to have accreditation under LAC 33:III.2739 and Paragraph F.1 of this Section.

1. Inspectors. All persons who inspect for ACM in facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to schools, and state buildings, shall be trained in accordance with this Section and accredited by the department. All persons seeking accreditation as inspectors shall complete a three-day training course as outlined below. The three-day program shall include lectures, demonstrations, four training hours of hands-on training, individual respirator fit testing, course

review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. The inspector training course shall adequately address the following topics. Hands-on training shall include conducting a simulated building walk-through inspection and respirator fit testing.

a. Background Information on Asbestos: identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos.

b. Potential Health Effects Related to Asbestos Exposure: the nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period for asbestos-related diseases; a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancer of other organs.

c. Functions/Qualifications and Role of Inspectors: discussions of prior experience and qualifications for inspectors and management planners; discussions of the functions of an accredited inspector as compared to those of an accredited management planner; discussion of the inspection process including inventory of ACM and physical assessment.

d. Legal Liabilities and Defenses: responsibilities of the inspector and management planner; a discussion comprehensive general liability policies, claims made and occurrence policies, environmental and pollution liability policy clauses; state liability insurance requirements; bonding and the relationship of insurance availability to bond availability.

e. Understanding Building Systems: the interrelationship between building systems, including an overview of common building physical plant layouts; heat, ventilation, and air conditioning (HVAC) system types-physical organization and where asbestos is found on HVAC components; building mechanical systems, their types and organization, and where to look for asbestos on such systems; inspecting electrical systems, including appropriate safety precautions; reading blueprints and as-build drawings.

f. Public/Employee/Building Occupant Relations: notifying employee organizations about the inspection; signs to warn building occupants; tact in dealing with occupants and the press; scheduling of inspections to minimize disruption; and education of building occupants about actions being taken.

g. Pre-Inspection Planning and Review of Previous Inspection Records: scheduling the inspection and obtaining access; building record review; identification of probable homogeneous areas from blueprints or as-built drawings; consultation with maintenance or building personnel; review of previous inspection, sampling, and abatement records of a building; the role of the inspector in exclusions for previously performed inspections.

h. Inspecting for Friable and Nonfriable Asbestos-Containing Material (ACM) and Assessing the Condition of Friable ACM: procedures to follow in conducting visual inspections for friable and nonfriable ACM; types of building materials that may contain asbestos; touching materials to determine friability; open return air plenums and their importance in HVAC systems; assessing damage, significant damage, potential damage, and potential significant damage; amount of suspected ACM, both in total quantity and as a percentage of the total area; type of damage; accessibility; material's potential for disturbance; known or suspected causes of damage or significant damage; deterioration algorithm methods as assessment factors.

i. Bulk Sampling/Documentation of Asbestos in Buildings: detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials (EPA 560/585-030a October 1985);" techniques to ensure that sampling is randomly distributed for other than friable surfacing materials; sampling of nonfriable materials; techniques for bulk sampling; sampling equipment the inspector should use; additional sampling requirements and chain-of-custody forms if litigation is anticipated; patching or repair of damage done in sampling; an inspector's repair kit; discussion of polarized light microscopy; choosing an accredited laboratory to analyze bulk samples; quality control and quality assurance procedures. The department recommends that all samples be analyzed by a laboratory that meets the requirements of LAC 33:I.Subpart 3.Chapters 45-59.

j. Inspector Respiratory Protection and Personal Protective Equipment: classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures for respirators; methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures and their applicability; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; and use, storage, and handling of nondisposable clothing.

k. Recordkeeping and Writing the Inspection Report: labeling of samples and keying sample identification to sampling location; recommendations on sample labeling; detailing of ACM inventory; photographs of selected sampling areas and examples of ACM condition; information required for inclusion in the management plan by LAC 33:III.2723.

l. Regulatory Review: EPA Worker Protection Rule in 40 CFR 763, subpart G, TSCA title II; OSHA asbestos construction standard 29 CFR 1926.1101 et seq.; OSHA respirator requirements found at 29 CFR 1910.134 et seq.; the Asbestos-Containing Materials in Schools and State Buildings Regulation found at LAC 33:III.Chapter 27; LAC 33:III.Chapter 51, Subchapter M; and differences in federal/state requirements where they apply and the effects, if any, on public and nonpublic schools, state and commercial or public buildings.

m. Field Trip: inclusion of a field exercise including a walk-through inspection; on-site discussion on information gathering and determination of sampling locations; on-site practice in physical assessment; classroom discussion of field exercise.

n. Course Review: review of key aspects of the training course.

2. Management Planners. All persons who prepare management plans for facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to

schools and state buildings shall be trained in accordance with this Section and accredited by the department. Possession of current and valid inspector accreditation shall be a prerequisite for admission to the management planner training course. All persons seeking accreditation as management planners shall complete an inspection training course as outlined above and a two-day management planning training course. The two-day training program shall include lectures, demonstration, course review, and a written examination. The use of audiovisual materials is recommended to complement lectures, where appropriate. The management planner training course shall adequately address the following topics.

a. Course Overview: the role of the management planner; operations and maintenance programs; setting work priorities; protecting building occupants.

b. Evaluation/Interpretation of Survey Results: review of TSCA Title II requirements for inspection and management plans as given in LAC 33:III.2723; summarized field data and laboratory results; comparison of field inspector's data sheet with laboratory results and site survey.

c. Hazard Assessment: amplification of the difference between physical assessment and hazard assessment; the role of the management planner in hazard assessment; explanation of significant damage, damage, potential damage, and potential significant damage; use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM; relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.

d. Legal Implications: liability; insurance issues specific to planners; liabilities associated with interim control measures, in-house maintenance, repair, and removal; use of results from previously performed inspections.

e. Evaluation and Selection of Control Options: overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method; response actions described via a decision tree or other appropriate method; work practices for each response action; staging and prioritizing of work in both vacant and occupied buildings; the need for containment barriers and decontamination in response actions.

f. Roles of Other Professionals: use of industrial hygienists, engineers, and architects in developing technical specifications for response actions; any requirements that may exist for architect sign-off of plans; team approach to design of high-quality job specifications.

g. Developing an Operations and Maintenance (O and M) Plan: purpose of the plan; discussion of applicable EPA guidance documents; what actions should be taken by custodial staff; proper cleaning procedures; steam cleaning and high-efficiency particulate aerosol (HEPA) vacuuming; reducing disturbance of ACM; scheduling O and M for off-hours; rescheduling or canceling renovation in areas with ACM; boiler room maintenance; disposal of ACM; in-house procedures for ACM—bridging and penetrating encapsulants; pipe fittings; metal sleeves; polyvinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement; discussion of employee protection programs and staff training; case study in developing an O and M plan (development, implementation process, and problems that have been experienced).

h. Regulatory Review: focusing on the OSHA Asbestos Construction Standard 29 CFR 1926.1101 et seq.; LAC 33:III.Chapter 51, Subchapter M; LAC 33:III.Chapter 27; EPA Worker Protection Rule in 40 CFR 763, subpart G.

i. Recordkeeping for the Management Planner: use of field inspector's data sheet along with laboratory results; ongoing recordkeeping as a means of tracking asbestos disturbance; procedures for recordkeeping.

j. Assembling and Submitting the Management Plan: plan requirements in LAC 33:III.2723; the management plan as a planning tool; the proper completion and submittal of required elements for management plans, Form AAC-8.

k. Financing Abatement Actions: economic analysis and cost estimates; development of cost estimates; present costs of abatement versus future operations and maintenance costs; Asbestos School Hazard Abatement Act grants and loans.

l. Course Review: review of key aspects of the training course.

NOTE: Persons who perform the management planner role in public and commercial buildings are not required to be accredited. However, persons may find this training and accreditation helpful in preparing them to design or administer asbestos operations and maintenance programs for public and commercial buildings.

3. Abatement Project Designers. A person shall be trained in accordance with this Section and accredited by the department as a project designer to design any of the following activities with respect to RACM in facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to a school or state building: a response action other than a SSSD maintenance activity, a maintenance activity that disturbs friable ACBM other than a SSSD maintenance activity, or a response action for a major fiber release episode. All persons seeking accreditation as abatement project designers shall complete a three-day abatement project designer training course as outlined below. The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The use of audiovisual materials to complement lecturers, where appropriate, is recommended. The three-day abatement project designer training course shall adequately address the following topics.

a. Background Information on Asbestos: identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos.

b. Potential Health Effects Related to Asbestos Exposure: nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

c. Overview of Abatement Construction Projects: abatement as a portion of a renovation project; OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.1101(d)).

d. Safety System Design Specifications: construction and maintenance of containment barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lock-out; proper working techniques for minimizing fiber release; entry and exit procedures for the work area; use of wet methods; use of negative pressure exhaust ventilation equipment; use of high-efficiency particulate air (HEPA) vacuums; proper cleanup and disposal of asbestos; work practices as they apply to encapsulation, enclosure, and repair; use of glove bags and a demonstration of glove-bag use.

e. Field Trip: visit to an abatement site or other suitable building site, including on-site discussions of abatement design, building walk-through inspection, and discussion of rationale for the concept of functional spaces during the walk-through.

f. Employee Personal Protective Equipment: the classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); components of a proper respiratory protection program; selection and use of personal protective clothing, including use, storage, and handling of nondisposable clothing; regulations covering personal protective equipment.

g. Additional Safety Hazards: hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire, and explosion hazards.

h. Fiber Aerodynamics and Control: aerodynamic characteristics of asbestos fibers; importance of proper containment barriers; settling time for asbestos fibers; wet methods in abatement; aggressive air monitoring after abatement; aggressive air movement and negative pressure exhaust ventilation as a cleanup method.

i. Designing Abatement Solutions: discussions of removal, enclosure, and encapsulation methods; asbestos waste disposal.

j. Final Clearance Process: discussion of the need for a written sampling rationale for aggressive final air clearance; requirements of a complete visual inspection; the relationship of the visual inspection to final air clearance; and discussion of the use of TEM analysis in the final clearance process.

k. Budgeting/Cost Estimation: development of cost estimates; present costs of abatement versus future operations and maintenance costs; setting priorities for abatement jobs to reduce cost.

l. Writing Abatement Specifications: preparation of and need for a written project design; means and methods specifications versus performance specifications; design of abatement in occupied buildings; modification of guide specifications to fit a particular building; worker and building occupant health/medical considerations; replacement of ACM with nonasbestos substitutes; clearance of work area after abatement; air monitoring for clearance.

m. Preparing Abatement Drawings: significance and need for drawings, use of as-built drawings; use of inspection photographs and on-site reports; methods of preparing abatement drawings; diagramming containment barriers; relationship of drawings to design specifications; particular problems with abatement drawings.

n. Contract Preparation and Administration

o. Legal/Liabilities/Defenses: insurance considerations; bonding; hold harmless clauses; use of abatement contractor's liability insurance; claims-made versus occurrence policies.

p. Replacement: replacement of asbestos with asbestos-free substitutes.

q. Roles of Other Consultants: development of technical specification sections by industrial hygienists or engineers; the multidisciplinary team approach to abatement design.

r. Occupied Buildings: special design procedures required in occupied buildings; education of occupants; extra monitoring recommendations; staging of work to minimize occupant exposure; scheduling of renovation to minimize exposure.

s. Relevant Federal, State, and Local Regulatory Requirements: procedures and standards, including:

i. requirements of TSCA title II;

ii. LAC 33:III.Chapter 51, Subchapter M, Asbestos;

iii. LAC 33:III.Chapter 27, Asbestos-Containing Material in Schools and Public Buildings;

iv. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.1001(c) or 29 CFR 1926.1101(c), whichever is applicable);

v. Worker protection rule, in 40 CFR 763 subpart G; and

vi. OSHA asbestos construction standard in 29 CFR 1926.1101 et seq., and OSHA hazard communication standard found at 29 CFR 1910.1200.

t. Course Review: a review of key aspects of the training course.

4. Asbestos Abatement Contractor/Supervisors. A person shall be trained in accordance with this Section and accredited by the department as a contractor/supervisor to supervise any of the following activities with respect to RACM in facilities regulated under LAC.33.III.Chapters 27 and 51, including but not limited to a school or state building,: a response action other than a SSSD activity, a maintenance activity that disturbs RACM other than a SSSD activity, or a response action for a major fiber release episode. All persons seeking accreditation as asbestos abatement supervisors shall complete a five-day training course as outlined below. The training course shall include lectures, demonstrations, at least 14 training hours of hands-on training, individual respirator fit testing, course review, and a written examination. The hands-on training shall include abatement work activities to include working with asbestos-substitute materials, the use of glove bags and protective clothing, proper bagging and wrapping, and constructing a decontamination unit. The use of audiovisual materials is recommended to complement lectures, where appropriate. For purposes of Louisiana state accreditation, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, or repair.

Supervisors may include those individuals with the position title of foreman, working foreman, or leadman pursuant to collective bargaining agreements. At least one supervisor is required to be at the worksite at all times while work is in progress. Asbestos workers must have access to accredited supervisors throughout the duration of the project. Contracted air-monitoring personnel shall be trained in accordance with this Section and accredited as contractor/supervisor. Hands-on training shall permit supervisors to have actual experience performing tasks associated with asbestos abatement. The supervisor's training course shall adequately address the following topics.

a. The Physical Characteristics of Asbestos and Asbestos-Containing Materials: identification of asbestos; aerodynamic characteristics; typical uses; physical appearance; a review of hazard assessment considerations; summary of abatement control options.

b. Potential Health Effects Related to Asbestos Exposure: the nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease.

c. Employee Personal Protective Equipment: classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing, including use, storage, and handling of nondisposable clothing; regulations covering personal protective equipment.

d. State-of-the-Art Work Practices: proper work practices for asbestos abatement activities, including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high-efficiency particulate air (HEPA) vacuums; proper cleanup and disposal procedures, including bagging and wrapping; work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures; recommended and prohibited work practices. Discussion of new abatement-related techniques and methodologies may be included.

e. Personal Hygiene: entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure, shall also be included.

f. Additional Safety Hazards: hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips, and falls, and confined spaces.

g. Medical Monitoring: OSHA and EPA Worker protection rule requirements for physical examinations, including a pulmonary function test, chest x-rays, and a medical history for each employee.

h. Air Monitoring: procedures to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods, reasons for air monitoring, types of samples, and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.

i. Relevant Federal, State, and Local Regulatory Requirements: procedures and standards, including:

i. requirements of TSCA title II;

ii. LAC 33:III.Chapter 51, Subchapter M. Asbestos;

iii. LAC 33:III.Chapter 27, Asbestos-Containing Material in Schools and State Buildings regulation;

iv. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers (29 CFR 1910.1001(c)), 29 CFR 1926.1101(c) and respiratory protection (29 CFR 1910.134 et seq.);

v. OSHA asbestos construction standard (29 CFR 1926.1101 et seq.; and

vi. 40 CFR 763 subpart G, worker protection rule.

j. Respiratory protection programs and medical surveillance programs:

i. OSHA standards for respiratory protection (29 CFR 1910.134 et seq.);

ii. OSHA protection factors for respirators (29 CFR 1910.1001(g) et seq. and medical surveillance (29 CFR 1926.1101(m); and

iii. EPA protection factors for respirators (40 CFR 763.122).

k. Insurance and Liability Issues: contractor issues; worker's compensation coverage and exclusions; third-party liabilities and defenses; insurance coverage and exclusions.

l. Recordkeeping for Asbestos Abatement Projects: records required by federal, state, and local regulations; records recommended for legal and insurance purposes.

m. Supervisory Techniques for Asbestos Abatement Activities: supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

n. Contract Specifications: discussion of key elements that are included in contract specifications.

o. Course Review: review of key aspects of the training course.

5. Asbestos Abatement Workers. A person shall be trained in accordance with this Section and accredited as a worker by the department to carry out any of the following activities with respect to RACM in facilities regulated under LAC.33.III. Chapters 27 and 51, including but not limited to a school or state building: response action other than a SSSD activity, a maintenance activity that disturbs RACM other than a SSSD activity, or a response action for a major fiber release episode. All persons seeking accreditation as asbestos abatement workers shall complete at least a four-day training course as outlined below. The worker training course shall include lectures, demonstrations, at least 14 training hours of hands-on training, individual respirator fit testing, course review, and an examination. The hands-on training shall include abatement work activities to include working with asbestos-substitute materials, the use of glove

bags and protective clothing, proper bagging and wrapping, and constructing a decontamination unit. The use of audiovisual materials is recommended to complement lectures, where appropriate. Hands-on training shall permit workers to have actual experience performing tasks associated with asbestos abatement. A person who is otherwise accredited as a contractor/supervisor may perform in the role of a worker without possessing separate accreditation as a worker. The training course shall adequately address the following topics.

a. Physical Characteristics of Asbestos: identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

b. Potential Health Effects Related to Asbestos Exposure: the nature of asbestos-related diseases, routes of exposure, dose-response relationships, and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease and a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

c. Employee Personal Protective Equipment: classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing; and regulations covering personal protective equipment.

d. State-of-the-Art Work Practices: proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high-efficiency particulate air (HEPA) vacuums; proper cleanup and disposal procedures including wrapping and bagging; work practices for removal, encapsulation, enclosure, and repair, emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures; and recommended and prohibited work practices.

e. Personal Hygiene: entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; potential exposures, such as family exposure.

f. Additional Safety Hazards: hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips, falls, and confined spaces.

g. Medical Monitoring: OSHA and EPA Worker Protection Rule requirements for a pulmonary function test, chest x-rays, and a medical history for each employee.

h. Air Monitoring: procedures to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

i. Relevant Federal, State and Local Regulatory Requirements, Procedures, and Standards: particular attention directed at relevant EPA, OSHA, and state regulations concerning asbestos abatement workers.

j. Establishment of respiratory protection programs.

k. Course Review: review of key aspects of the training course.

C. Examination. A closed-book examination shall be given to all persons seeking accreditation who have completed an initial training course. A person seeking accreditation in a specific discipline shall pass the examination for that discipline prior to receiving a training certificate. For example, a person seeking accreditation as an inspector must pass the inspector's accreditation examination given by the training provider. Each examination shall adequately cover the topics included in the training course for that discipline. Persons who pass and fulfill other associated requirements will receive a certificate indicating that they are trained in a specific discipline. The following are the requirements for examinations in each area:

1. inspectors:
   a. 50 multiple choice questions;
   b. passing score—70 percent;
2. management planners:
   a. 50 multiple choice questions;
   b. passing score—70 percent;
3. abatement project designers:
   a. 100 multiple choice questions;
   b. passing score—70 percent;
4. asbestos abatement contractors and supervisors:
   a. 100 multiple choice questions;
   b. passing score—70 percent;
5. asbestos abatement workers:
   a. 50 multiple choice questions;
   b. passing score—70 percent.

D. Refresher Training Courses. The refresher course shall be specific to each discipline. Refresher courses shall be conducted as separate and distinct courses and not combined with any other training during the period of the refresher course.

1. For all disciplines except inspectors, a one-day annual refresher training course is required for reaccreditation.

2. Refresher courses for inspectors shall be a half-day length.

3. Management planners shall attend the inspector refresher course, plus an additional half-day on management planning.

4. For each discipline, the refresher course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training courses.

5. After completing the annual refresher course, persons shall have their training extended an additional year. If a refresher course is not completed within two years of the last course completion date, the initial training course has to be retaken for reaccreditation.

E. Qualifications. In addition to training and an examination, inspectors, management planners, and abatement project designers shall meet the requirements listed below.

1. Inspectors. Qualifications—possess a high school diploma or GED.

2. Management Planners. Qualifications:

a. a certification, registration, or license to practice as an architect, professional engineer, or certified industrial hygienist;

b. bachelor's degree in a related scientific field; or

c. a bachelor's degree and five years experience related to assessments and abatement projects in schools and state buildings as an accredited asbestos inspector.

3. Abatement Project Designer. Qualifications:

a. a certification, registration or license to practice as an architect, professional engineer, or certified industrial hygienist.

F. Accreditation of Agents

1. Accreditation is required for:

a. persons who inspect for the presence of asbestos in facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to schools and/or state buildings;

b. persons who develop management plans for schools and/or state buildings, or those buildings used or leased by the state;

c. persons who design or carry out response actions for facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to schools and/or state buildings involving RACM (other than SSSD);

d. persons contracted to perform air monitoring in facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to schools and state buildings;

e. persons contracted to strip, remove, or otherwise handle or disturb RACM in facilities regulated under LAC 33:III.Chapters 27 and 51, including but not limited to schools, or state buildings.

2. Application for Accreditation. The applicant for accreditation shall submit the following items:

a. the latest version of a completed and legible asbestos accreditation affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services or through the department's website) that contains:

i. the applicant's name, address, telephone number, fax number, and email address;

ii. the applicant's driver's license or state identification number and the issuing state;

iii. the name, address, telephone number, fax number, and email address of the applicant's employer;

iv. an identification of the disciplines in which accreditation is sought;

v. Form AAC-1 statement of regulation possession, knowledge and enforceability;

vi. the applicant's previous agency interest number (AI #), if applicable; and

vii. the applicant's signature and the date of application;

b. a copy of the current class training certificate. First-time applicants shall also submit copies of initial training and all subsequent refresher (update) certificates;

i. the training course(s) shall have at least contingent approval from EPA or be approved by a state authorized by the EPA to approve training courses;

ii. applicants seeking accreditation from Louisiana that received current training from providers recognized by EPA or an EPA-authorized state not recognized by Louisiana shall also submit proof of a current two-hour training course in current Louisiana regulations from a Louisiana RATP (reciprocity);

c. applications for inspector, management planner, and project designer shall include, where applicable:

i. a copy of a high school diploma, general educational development (GED) certificate or documentation of the highest level of education achieved (including as necessary, a bachelor's degree in a related field);

ii. a copy of proof of certification registration or license to practice as an architect, certified industrial hygienist, or a professional engineer;

d. applicable fees as noted in LAC 33:III.223;

e. a 1" x 1 1/4" photograph of the applicant's face (front view) labeled with their name.

3. The completed application with applicable fees (LAC 33:III.223) shall be sent to the Office of Environmental Services.

4. Persons shall be considered accredited upon receipt of a certificate of accreditation or identification card issued by the department.

5. Approved Applications

a. Accreditation numbers shall be issued to all approved agents.

b. A qualified individual seeking accreditation shall be issued accreditation certificates, which expire one year after the last day of his or her most recent training course.

6. Renewal of Accreditation

a. To renew accreditation, all persons shall submit an application in accordance with the requirements of Paragraph F.2 of this Appendix.

b. A qualified individual shall maintain continuous accreditation provided the individual submits the required documents at least 30 days prior to his or her expiration/renewal date.

i. If an individual seeking reaccreditation has received refresher training within 90 days prior to his or her existing expiration/renewal date, his or her accreditation shall be extended for one year from the existing expiration/renewal date.

ii. If an individual seeking reaccreditation has received refresher training earlier than 90 days prior to his or her existing expiration/renewal date, his or her new expiration/renewal date will be one year after the last day of his or her most current training.

c. If a qualified individual does not submit an application for renewal within the time provided in Subparagraph F.6.b of this Appendix, his or her accreditation will lapse at the expiration of the term of the accreditation. A qualified individual may be reaccredited upon an application for renewal in accordance with Subparagraph F.6.a of this Appendix. The accreditation expiration/renewal date will be one year after the last day of his or her most current training,

provided the applicant has received refresher training within two years of the last course completion date. If a refresher is not taken within two years of the last course completion date, the initial training course shall be required for reaccreditation in accordance with Paragraph D.5 of this Appendix.

7. Agents who are supervisor accredited are responsible for ensuring that maintenance personnel in schools and state buildings are properly trained as defined in LAC 33:III.2721 and that workers trained to meet LAC 33:III.2739.B.3 are accredited.

8. Revocation of Accreditation. Accredited agents may have accreditation revoked for:

a. failure to comply with or direct others to comply with LAC 33:III.Chapters 27 and 51, and other applicable federal, state, and local regulations;

b. failure to notify the Office of Environmental Services of changes in status;

c. failure to operate safely and/or protect the environment;

d. failure to allow a department representative to inspect and review sites and documentation;

e. failure to submit valid and accurate accreditation application documents and/or training documents;

f. performing work requiring accreditation at a job site without evidence of required accreditation which shall include, but not be limited to, current DEQ-issued identification cards or accreditation certificates being available for inspection by the administrative authority at the worksite;

g. permitting the duplication or use of one's own accreditation certificate by another;

h. performing work for which accreditation has not been received; and

i. obtaining training from a training provider that does not have approval to offer training for the particular discipline from either EPA or from a state authorized by EPA that has an accreditation plan at least as stringent as the EPA model accreditation plan (MAP).

9. Revocation of accreditation shall be effective for no less than one year.

10. Prohibitions

a. The alteration or possession of altered certificates is prohibited.

b. The submission of any false statement, representation, or certification in any form, application, report, plan, or any other document filed or required to be submitted to/or maintained by the department is prohibited.

c. A student shall not participate both as a student and as a principal trainer in their own asbestos training courses for certification, and shall not sign their own training certificate.

G. RATP and Principal Trainers. RATPs and principal trainers shall be recognized by the department prior to conducting training of approved courses in Louisiana. Principal trainers who conduct asbestos courses in Louisiana shall do so in association with a RATP recognized by the department.

1. Asbestos training providers requesting recognition shall provide the following:

a. the latest version of the asbestos training provider recognition application, Form AAC-3, (which may be obtained from the Office of Environmental Services or through the department's website) requesting approval to train asbestos agents;

b. the latest version of the asbestos trainer recognition application, Form AAC-4, with resumes for principal trainers;

c. two or more principal trainers shall be listed for each initial training course; and

d. appropriate fees (LAC 33:III.223).

2. The asbestos training provider recognition application shall, at a minimum, include the following:

a. the name, address, telephone number, and email address of the training provider's primary offices and the representative serving as the contact for the provider for the scheduling of training courses and for other training activities;

b. the signature of a responsible official for the training provider; and

c. information on the specific courses including:

i. course discipline (e.g., worker, contractor/supervisor, inspector, etc.);

ii. course type (i.e., initial or refresher);

iii. the language in which the course will be taught;

iv. all addresses of the physical locations where courses will be held during the year;

v. a description of the facility where the classes will be held (e.g., warehouse, industrial building, etc.);

vi. copies of the latest version of training materials including texts, syllabi, and outlines, but not including exams:

(a). if the latest version of training material was submitted with the last application, a note to that effect is sufficient;

(b). the training material shall be provided in the language it will be taught; and

(c). the department reserves the right to request a copy of the training material at any time;

vii. a detailed statement about the development of the examination used in the course. The statement shall include, but is not limited to:

(a). the number of questions for each exam;

(b). the topics covered in the exam; and

(c). the number of questions specifically relating to Louisiana regulations; and

viii. a detailed statement clearly indicating how the course meets the requirements of this Appendix for:

(a). length of training days;

(b). amount and type of hands-on training;

(c). examination (e.g., length, format, passing score);

(d). topics covered in the course;

(e). a copy of an example training completion certificate; and

(f). a copy of the EPA letter recognizing approval of the training provider's course or approval from a state authorized by EPA to approve training courses, if applicable.

3. Trainers seeking recognition shall submit:

a. the latest version of the asbestos trainer recognition form, AAC-4;

b. appropriate fees (LAC 33:III.223);

c. a resume indicating proof of experience in the subjects they will teach which includes the following experience requirements:

i. a degree or training certification in the subject being taught; and

ii. experience in the field for two or more years;

d. a person experienced as a supervisor/contractor is also considered experienced as a worker.

4. Training Providers and Trainers Recognition

a. Training providers and trainers shall be considered recognized upon written confirmation from the department or upon receipt of a certificate of recognition from the department.

b. Training recognition numbers will be issued to all recognized training providers and principal trainers. The recognition is effective for one year from the date issued.

c. Recognition of training providers and trainers may be renewed annually by submitting the latest revision of Forms AAC-3 and AAC-4 respectively along with all appropriate updates to the information required for the application and the applicable fees to the department.

5. Applications for training provider and trainer recognition may be denied for:

a. incomplete applications;

b. inaccurate or falsified information;

c. incomplete supporting documentation;

d. failure to comply with applicable federal, state, and local regulations, which includes nonpayment of fees or a history of noncompliance with LAC 33:III.Chapters 27 and 51; and

e. at the discretion of the department based on past compliance history.

6. Training courses will be given contingent approval based upon the review of course materials and inclusion of those topics required under Subsection B of this Appendix when applicable. Full approval may be given upon completion of an audit of the courses.

7. Recognition for a training course may be denied if the training provider fails to:

a. comply with the course requirements outlined in LAC 33:III.274.B; and

b. comply with the notification requirements outlined in LAC 33:III.2741.B.

8. Compliance and Enforcement. A recognized training provider or recognized trainer may have their recognition withdrawn or revoked for one or more years according to one or more of the following criteria:

a. failure to issue certificates which includes the information required by these regulations;

b. failure to ensure that the training materials are applicable to the class taught, and are included in the latest material submitted to the department as part of the initial or renewal application;

c. failure to ensure that the training material includes the most current version of the DEQ forms, obtained from the department website;

d. failure to ensure that the Office of Environmental Services is informed of any change in status of the training organization, such as pending fines, notices of violation, changes in principal trainer status, etc;

e. failure to ensure that a timely notification of courses that will be taught, including where, when, and who will conduct the class, or that a cancellation of classes is received by the Office of Environmental Services before the class should have commenced;

f. failure to ensure that an accurate, timely, and complete roster is received by the Office of Environmental Services;

g. misrepresentation of the extent of a training course's approval by a state or EPA;

h. failure to submit required information or notifications in a timely manner;

i. failure to maintain requisite records;

j. falsification of recognition or accreditation records, trainer qualifications, or other information;

k. falsification of any information regarding the principal trainer and course location on the notification or roster;

l. misrepresenting the contents of a training course to the department and/or the student population;

m. making false or misleading statements to the department, EPA, or another state in its application for recognition;

n. failure to adhere to the training standards and requirements of the agent accreditation plan and the EPA MAP; and/or

o. failure to meet any of the requirements of this Appendix.

9. Three violations of any of the requirements of this Subsection will result in the training provider or principal trainer permanently losing their recognition to teach courses in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 30:2803 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005), LR 33:2090 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:510 (March 2014).

Herman Robinson, CPM
Executive Counsel

1403#026

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Emission Standard for Asbestos (Demo/Reno)
(LAC 33:III.5151)(AQ330S)

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 amends the Air regulations, LAC 33:III.5151 (AQ330S).

LAC 33:III.Chapter 51regulates each owner or operator of a demolition or renovation activity, including the removal of regulated asbestos-containing material or the renovation or demolition of asbestos-containing materials. The regulation provides for notification and accreditation requirements. This action is required to delete unnecessary language, clarify some language in the regulations and make necessary changes in order to help implement the programs. The basis and rationale for this Rule revision is to clarify language adopted from federal regulations to ensure that the regulated community understands the requirements to protect public health when disturbing asbestos-containing materials. 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 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. Applicability. The provisions of this Subchapter are applicable to those sources specified in Subsections C-O of this Section.

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in LAC 33:III.5103 or below, as follows.

Accessible—asbestos-containing material that is subject to disturbance by facility occupants, custodial or maintenance personnel in the course of their normal activities. *Accessible* also refers to *asbestos-containing material* that is available for examination and sampling purposes prior to a *demolition* or *renovation*.

* * *

Adequately Wet—sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing materials, then that material has not been *adequately wetted*. However, the absence of visible emissions is not sufficient evidence of being *adequately wet*. Once contained, water droplets formed inside disposal containers will be sufficient evidence of being *adequately wet*. Lack of water droplets means it is not *adequately wet*.

Asbestos—the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

Asbestos-Containing Material (ACM)—any material or product that contains more than 1 percent *asbestos* as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy.

Asbestos-Containing Waste Material (ACWM)—mill tailings or any waste that contains commercial or previously commercial asbestos and is generated by a source subject to the provisions of this Subchapter. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial *asbestos*. As applied to *demolition* and *renovation* operations, this term also includes *regulated asbestos-containing material* waste and materials contaminated with *asbestos*, including *ACD*, and disposable equipment and clothing.

Asbestos-Contaminated Debris (ACD)—demolition or renovation debris that contains *regulated asbestos-containing material* as defined in this Subsection.

Asbestos-Contaminated Debris Activity (ACDA)—the handling and/or disposal of *asbestos-contaminated debris* as *RACM*.

* * *

Category I Nonfriable (ACM)—asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy that when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Category II Nonfriable ACM—any material, excluding *category I nonfriable ACM*, containing more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

* * *

Demolition—the permanent wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

* * *

Enclosure—an airtight, impermeable, barrier placed around *ACM* during activities that disturb asbestos to prevent the release of asbestos fibers into the ambient air.

* * *

Facility—any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, and residential buildings having greater than four dwelling units); any ship; and any active or inactive waste disposal, or *ACD* site. Residential buildings that have four or fewer dwelling units are exempt from the provisions of this Subchapter, except those residential structures that are intentionally demolished or renovated as part of a commercial or public project, such as urban renewal or highway right-of-way projects and those that are intentionally burned. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this Subchapter is not excluded, regardless of its current use or function.

Facility Component—any part of a *facility*, including equipment, that is under the control of an owner or operator.

Fiber Release Episode—any uncontrolled or unintentional disturbance of *ACM*.

Friable Asbestos Material—any material containing more than 1 percent asbestos as determined by using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the *asbestos* content is less than 10 percent as determined by a method other than point counting by

polarized light microscopy (PLM), verify the asbestos content by point counting using PLM, or assume the amount to be greater than 1 percent and treat the material as *ACM*.

* * *

Glove Bag—a sealed compartment with attached inner gloves used for the handling of *ACM*. Properly installed and used, *glove bags* provide a small work area enclosure typically used for small-scale asbestos stripping operations.

a. - c. …

d. Any deviation from single use of a *glove bag* requires prior written approval of the administrative authority. Additional information on *glove bag* installation, equipment and supplies, and work practices can be obtained from the Occupational Safety and Health Administration's (OSHA's) final Rule on occupational exposure to asbestos (29 CFR 1926.1101(g)).

* * *

Inspection or *Inspect*—an examination of a facility or facility component to determine the presence or location, or to assess the condition of friable or nonfriable *asbestos* material, or suspected *asbestos* material, whether by visual or physical examination, or by collecting samples of such material. This term includes reinspections of assumed *asbestos* material and friable and nonfriable asbestos material which has been previously identified. The term does not include the following:

a. periodic surveillance of the type described in LAC 33:III.2721.B solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos material;

b. inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or

c. visual inspections of the type described in LAC 33:III.2717.J solely for the purpose of determining completion of response actions.

Installation—any building or structure or any group of buildings or structures at a single demolition or renovation site that part of a planned project that are under the control of the same owner or operator (or owner or operator under common control).

* * *

Nonfriable Asbestos-Containing Material—any material containing more than one percent asbestos as determined by the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

* * *

Nonscheduled Operation—a *renovation* operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operation experience, but for which an exact date cannot be predicted. Diaphragm cell renewal is considered a *nonscheduled operation*.

Operations and Maintenance (*O and M*)—Repealed.

* * *

Owner or Operator of a Demolition, Renovation, Response Action or ACD Activity (owner/operator)—any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated, or an *ACDA* or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both, response action, or an *ACDA*.

* * *

Recognized Asbestos Landfill (RAL)—a waste disposal site recognized by DEQ, Office of Environmental Services after receipt of an asbestos landfill recognition form (AAC-7). An in-state landfill shall comply with Subsection N of this Section and be permitted or authorized to accept *ACWM*. An out-of-state landfill shall be subject to 40 CFR part 61.154 or another state's applicable regulation that EPA has determined to be at least as stringent as §61.154.

Recognized Disposal Site—Repealed.

Regulated Asbestos-Containing Material (RACM)—

a. friable asbestos material;

b. *category I* and *II nonfriable ACM* that has become friable such as asbestos-cement material that is not removed from a facility prior to demolition;

c. *category I* and *II nonfriable ACM* that has a high probability of becoming or has become crumbled, pulverized, ground, sanded, cut, abraded, or reduced to powder by the forces that have acted or are expected to act on the material in the course of *demolition* or *renovation* operations; or

d. *resilient floor covering* or the asbestos-containing mastic used to attach it to the floor surface that is scraped, sanded, abraded, bead blasted, cut, ground, crumbled, pulverized, or reduced to powder by any means, either hand or mechanical equipment. This definition does not include *resilient floor covering* removed by using dry ice, heat, wet methods, and chemicals where the tiles or sheeting are removed intact (minor tears or minor breakage is acceptable where, for all intents and purposes, the flooring is considered whole) or asbestos-containing mastic that has been removed by chemical or other means that results in the asbestos fibers in *ACWM* being bound within a macro substrate and cannot reasonably become airborne unless further forces are applied.

Remove—to take out *RACM* or facility components that contain or are covered with *RACM*.

Renovation—altering a facility or one or more facility components in any way, including the washing, stripping, or removal of *RACM* from a facility component. Operations in which load-supporting structural members are wrecked or taken out are *demolitions*.

* * *

Resilient Floor Covering—asbestos-containing floor tiles, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent *asbestos* as determined by using polarized light microscopy according to the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy.

Response Action—a method, including actions during demolition or renovation that provides for removal, encapsulation, enclosure, repair, and operations and maintenance activities, that protects human health and the environment from *RACM*.

* * *

Small-Scale, Short-Duration (SSSD) Activities—Repealed.

State Building—Repealed.

* * *

Urban Renewal—demolitions or renovations of blighted or condemned properties authorized or conducted by government entities (city, parish, or state) as part of commercial or public projects.

* * *

Waste Shipment Record—the shipping document, asbestos disposal verification form, (ADVF), required to be originated and signed by the waste generator or the owner or operator of a demolition, renovation, response action or *ACD* activity, used to track and substantiate the disposition of asbestos-containing waste material to an RAL.

Wet Methods—for resilient floor coverings, wetting sufficiently to cause the coverings to break loose or lift from the substrate in whole pieces.

Work Area Controls—work practices and engineering procedures that shall be used when removing *RACM*, as outlined in OSHA 29 CFR 1926.1101.g.

* * *

C. - E.8. …

F. Emission Standard for Demolition, Renovation, Asbestos-Contaminated Debris Activities, Response Actions and Major Fiber Release Episodes

1. Applicability. To determine which requirements of Paragraphs F.1, 2 and 3 of this Section apply to the owner or operator of a demolition, or renovation, response action or ACD activity and prior to the commencement of the activity, the owner/operator shall either assume that *RACM*, as defined in Subsection B of this Section, is present or an accredited inspector shall thoroughly inspect the affected facility or part of the facility where the activity will occur for the presence of asbestos, including category I and category II nonfriable ACM. All homogeneous areas that potentially contain asbestos shall either be assumed to be ACM or samples shall be collected and submitted for analysis. The requirements of Paragraphs F.2 and 3 of this Section apply to each owner or operator of a *demolition*, *renovation*, *response action* or *ACD* activity as defined in Subsection B of this Section, as follows.

a. In a facility being demolished, all the requirements of Subparagraphs F.2.a, b, d, and f, Clauses F.2.c.i and v, and Paragraph F.3 of this Section apply, except when the facility is being demolished under an order by a state or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse as provided in Subparagraph F.1.c of this Section, if the combined the amount of RACM is:

i. at least 60 linear feet on pipes;

ii. at least 64 square feet on other facility components; or

iii. at least 27 cubic feet off facility components where the length or area could not be measured previously.

b. In a facility being demolished, only the notification requirements of Subparagraphs F.2.a and b and Clauses F.2.c.ii and v, d.i-vii, ix, xiv and xvii of this Section apply, if category I or II nonfriable ACM present in the facility will remain in good condition, would not be rendered RACM as a result of the demolition activity (any category I or II nonfriable ACM that may be rendered RACM as a result of the demolition activity, such as asbestos-cement products, must be counted toward the thresholds below), and the combined amount of RACM (including category I or II nonfriable ACM that may be converted to RACM) is:

i. less than 60 linear feet on pipes;

ii. less than 64 square feet on other facility components; or

iii. less than 27 cubic feet off facility components where the length or area could not be measured previously.

c. If the facility is being demolished under an order of a state or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse only the requirements of Subparagraphs F.2.a and b, Clause F.2.c.iii, Subparagraph F.2.d (except Clause F.2.d.viii), Subparagraph F.2.f, and Paragraph F.3 (except Subparagraph F.3.a) of this Section apply.

d. If a facility is demolished or renovated prior to an inspection or notification, then all debris at the site is categorized as *asbestos-contaminated debris (ACD)*, as defined in Subsection B of this Section unless the owner/operator affirmatively demonstrates there is no ACM in the debris. The owner/operator shall follow the procedures and requirements as provided in Subparagraphs F.2.a, b, d, and f and Clauses F.2.c.i and v of this Section, and shall handle and dispose of the debris in accordance with Paragraph F.3 and Subsection J of this Section.

e. In a facility being renovated, including a response action and any individual nonscheduled renovation operation, all the requirements of Paragraphs F.2 and 3 of this Section apply if:

i. the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is:

(a). at least 60 linear feet on pipes;

(b). at least 64 square feet on other facility components; or

(c). at least 27 cubic feet off facility components where the length or area could not be measured previously.

ii. To determine whether Subclause F.1.e.i.(a), (b), or (c) of this Section applies to planned renovation operations involving individual nonscheduled operations, predict the combined additive amount of RACM to be removed, stripped dislodged, cut, drilled, or similarly disturbed during a calendar year of January 1 through December 31 based on past operating experience.

iii. To determine whether Subclause F.1.e.i.(a), (b), or (c) of this Section applies to emergency renovation operations, including those associated with major fiber release episodes and response actions, estimate the combined amount of RACM to be removed, stripped, dislodged, cut, drilled, or similarly disturbed as a result of the sudden, unexpected event that necessitated the renovation.

iv. If Clause F.1.e.i of this Section is not applicable to the renovation activity, it is exempt from any further requirements of this Section (except to conduct the inspection or assume material is RACM pursuant to Paragraph F.1 of this Section).

f. Owners or operators of demolition, renovation, response actions and ACD operations are exempt from the requirements of LAC 33:III.5105.A, 5109.E, 5111.A and 5113.A.

g. Residential structures including those with four and fewer dwelling units that are demolished or renovated as part of a commercial or public project, such as urban renewal or highway right-of-way projects, are considered

installations and are subject to the provisions of this Subchapter.

h. A person contracted to perform a demolition, renovation, or response action which disturbs RACM or conducts ACDA shall comply with any applicable requirements of the Louisiana State Licensing Board for Contractors to perform asbestos abatement. The supplying of regulated personnel on an hourly, monthly, or other time basis to another company is considered contracting (i.e., abatement workers, supervisors, air monitoring, or project monitoring personnel).

i. If the activities are emergency demolition operations, all the requirements of Subparagraphs F.2.a, b, d, e, and f, and Paragraph F.3 of this Section apply.

j. When greater than 64 square feet of either *resilient floor covering*, as defined in Subsection B of this Section, is removed by using dry ice, heat, wet methods, and chemicals where the tiles or sheeting are removed intact (minor tears or minor breakage is acceptable where, for all intents and purposes, the flooring is considered whole) or asbestos-containing mastic removed by chemical or other means that results in the asbestos fibers in the ACWM being bound within a macro substrate and cannot reasonably become airborne unless further forces are applied, Subparagraphs F.2.a and b, and Clauses F.2.c.vi, d.i-ix, and xv-xvii of this Section apply.

k. Paragraphs F.2 and 3 of this Section (except Subparagraph F.3.a of this Section) apply to any ACDA.

l. An asbestos renovation or demolition project, or ACDA shall not begin until an asbestos notification of renovation and demolition form AAC-2 is received by the department, except in the case of an emergency.

2. Notification Requirements. Each owner or operator of a demolition, renovation, response action or ACD activity to which this Subsection applies shall:

a. provide the Office of Environmental Services with typed notice of intention to demolish, renovate, conduct a response action, or an ACDA by completing and submitting the latest version of notification of demolition and renovation and asbestos-contaminated debris activity form, AAC-2, and fees, if applicable. This form is available from the Office of Environmental Services or through the department's website. Delivery of the notice by U.S. Postal Service, commercial delivery service, hand delivery, or email is acceptable. The use of a prior version of the AAC-2 form is acceptable unless the department has previously provided the owner/operator with notice of or a copy of the current version, or the owner/operator is aware of the latest version.

i. After review of the notification, if the application is incomplete, inaccurate, or the fee is not submitted, a response shall be faxed or emailed to the company indicating the application is incomplete, and processing will be discontinued until all applicable information is completed and submitted to DEQ.

ii. Any unauthorized renovation, demolition, or ACDA project, including those not processed due to incompleteness or inaccurate information on Form AAC-2 is a violation of this Section.

b. Update by highlighting or circling revisions on, a revised Form AAC-2, as necessary, (i.e., when the amount of asbestos affected changes by plus or minus 20 percent) and indicate revised total amount of the entire project in cubic yards, or if there is a change in transporter, contractor, or designated landfill.

c. Postmark or deliver the notice as follows:

i. at least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge, or similarly disturb asbestos material), if the activity is a demolition or renovation of a facility where RACM is present as described in Subparagraphs F.1.a and e (except Clauses F.1.e.ii [nonscheduled operations] and iii [emergency operations]) of this Section;

ii. at least five working days before demolition begins, if a facility is being demolished where RACM is below threshold levels as provided in Subparagraph F.1.b of this Section;

iii. as early as possible before, but not later than the following working day, when the facility is being demolished under an order issued by a state or local government agency because the facility is structurally unsound and in danger of imminent collapse, according to Subparagraph F.1.c of this Section, or if the operation is an emergency renovation described in Clause F.1.e.iii of this Section;

iv. at least 10 working days before the end of the calendar year preceding the year for which notice is being given for renovations described in Clause F.1.e.ii of this Section;

v. for activity covered by Subsection F (except Clauses F.1.e.ii and iii), that will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the DEQ as follows:

(a). when activity covered by Subsection F will begin after the date contained in the notice (AAC-2 form):

(i). notify the DEQ regional office responsible for inspecting the project site of the new start date by fax or email as soon as possible before the original start date; and

(ii). provide the Office of Environmental Services with a revised AAC-2 form of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, fax, email, or hand delivery is acceptable;

(b). when the activity covered by Subsection F will begin on a date earlier than the original start date, submit a revised AAC-2 form with the new start date. The revised notice shall meet the requirements of Subparagraph F.2.c; and

(c). in no event shall an operation covered by this Subsection begin on a date other than the date contained in the written notice (AAC-2) of the new start date.

vi. Notify the DEQ regional office by fax or email three days prior to the start of the removal of *resilient floor covering*, as defined in Subsection B of this Section, by using dry ice, heat, wet methods, and chemicals where the tiles or sheeting are removed intact or asbestos-containing mastic removed by chemical or other means that results in the asbestos fibers in the ACWM being bound within a macro substrate and cannot reasonably become airborne unless forces are applied when required by Subparagraph F.1.j.

d. In the notice include:

i. an indication of whether the notice is the original, additional, emergency, revised (including canceled), or nonscheduled maintenance operation (annual) notification, the number of ADVFs requested, and/or note if the structure is being demolished under an order of a state or local government agency;

ii. name, address, telephone number, and email address of a contact person of both the facility owner and operator and the asbestos removal contractor owner or operator, with the current DEQ identification number assigned by the administrative authority;

iii. type of operation—demolition, renovation, response action, or ACDA;

iv. a description of the facility or affected part of the facility including the size (square feet, linear feet, and number of floors), age, and present and prior use of the facility;

v. the procedure, including analytical methods, employed to detect the presence of RACM and category I and category II nonfriable ACM, or check the "Known or Assumed" box if assumed to be asbestos and no analytical data is provided;

vi. estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear feet, surface area in square feet on other facility components, or volume in cubic feet if off the facility components. Also, estimate the approximate amount of category I and category II nonfriable ACM in the affected part of the facility that will not be removed before the demolition. In the case of asbestos-contaminated debris pile(s), estimate the approximate total volume of the debris to be disposed. Total volume of all RACM and ACD shall be documented in cubic yards;

vii. location and street address (including building number or name and floor or room number, if appropriate), city, parish, and state, of the facility being demolished, renovated, or for ACDA;

viii. scheduled starting and completion dates of asbestos removal work (or any other activity, such as site preparation that would break up, dislodge, or similarly disturb asbestos material) in a demolition, renovation, or ACDA; planned renovation operations involving individual nonscheduled operations shall include the beginning and ending dates of the annual report period as described in Clause F.1.e.ii of this Section;

ix. scheduled starting and completion dates of demolition, renovation, response action, or ACDA;

x. description of planned demolition, renovation work, response action, or ACDA to be performed and method(s) to be employed, including demolition or renovation techniques to be used and description of affected facility components;

xi. description of work practices and engineering controls to be used to comply with the requirements of this Section, including asbestos removal and waste handling emission control procedures;

xii. name, telephone number, mailing address, and physical location of the RAL where the asbestos-containing waste material will be deposited;

xiii. a signed certification that personnel performing the demolition or renovation activity, response action, or ACDA are trained and accredited as required by Subparagraph F.3.h of this Section when RACM is present;

xiv. for demolitions where RACM is below threshold levels as provided in Subsection F.1.b of this Section, a signed certification stating that RACM is below threshold levels;

xv. for facilities demolished under an order of a state or local government agency, issued because the facility is structurally unsound and in danger of imminent collapse, the name, title, and authority of the state or local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification;

xvi. for emergency renovations, including emergency renovation operations of an estimated amount of RACM to be removed or stripped as a result of a sudden, unexpected event that necessitated the renovation, the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden;

xvii. description of procedures to be followed in the event that unexpected RACM is found or category II nonfriable ACM becomes RACM;

xviii. name, mailing address, telephone number, and DEQ identification number of the solid waste transporter(s) carrying the waste to the RAL and offsite/temporary storage area; and

xix. current ADVF numbers if they have been issued for the project;

e. for emergencies, provide notification by phone, fax, email, or voice mail to the Office of Environmental Services and DEQ regional office responsible for inspecting the project site as soon as possible, but in no case later than four hours after learning of the incident that required emergency response action, demolition or renovation operations:

i. the emergency notification shall include the following:

(a). the reason for the emergency;

(b). steps taken to minimize hazards to workers and the public; and

(c). estimated quantities of friable and nonfriable ACM to be handled;

ii. within five working days after the emergency notification is made, a typed AAC-2 form together with required fees as specified in Subparagraphs F.2.a and d of this Section shall be submitted to the Office of Environmental Services;

f. use the following procedures in order that the department can trace disposal of ACWM:

i. each properly completed and submitted demolition, renovation, response action, or ACDA notification received by the department that is associated with a project that generates asbestos-containing waste material shall result in issuance of an ADVF with a specific ADVF project number to the owner/operator. The ADVF, or

a copy, shall be kept at the facility, except as provided in Subparagraph F.1.l of this Section, and available for inspection by the department during demolition, renovation, response action, and ACDA. Alterations of the ADVF shall invalidate the ADVF;

ii. the owner or operator of a demolition, renovation, response action, or ACDA shall complete and sign their portion of the valid ADVF, including the quantity shipped in cubic yards, the date the project is scheduled to be completed (or has been completed as applicable), printed name, signed and dated certification, and relinquish the valid ADVF to the waste transporter prior to the off-site shipment;

iii. the waste transporter shall transport the asbestos-containing waste material with the ADVF to a RAL and complete name, dates received and delivered, sign the transporter portion, then relinquish the ADVF to the RAL site owner or operator at the time the asbestos waste is delivered for burial;

iv. upon receipt from the transporter, the RAL owner or operator shall verify the ADVF, enter the date received, indicate the quantity received in cubic yards, print and sign the disposal facility portion of the ADVF, and mail the original ADVF to the Office of Environmental Services within 30 working days. A copy of the valid ADVF is to be returned to the waste generator within 30 working days;

v. the ADVF shall expire 90 days from the date of issue. ADVFs for nonscheduled operations shall expire on December 31 of the year for which they are issued;

vi. the ADVF shall be completed in its entirety by the applicable person as indicated in the particular section of the form. Information entered onto the form must be legible;

vii. acceptance of an invalid ADVF by a contractor, waste transporter, or disposal site owner or operator is a violation of this Subchapter; and

viii. all ADVFs that are not used shall be returned by the owner/operator to the Office of Environmental Services within 30 working days after expiration.

3. Procedures for Asbestos Emission Control. Each owner or operator of a demolition, renovation, response action, or ACD activity to whom this Section applies, according to Paragraph F.1 of this Section, shall maintain the ADVF or a copy on-site, except for the provisions in Subparagraph F.1.l of this Section and comply with the following procedures.

a. …

i. it is category I nonfriable ACM that is not in poor condition and has a low probability that it will become RACM;

ii. …

iii. it was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any ACD shall be treated as ACWM and adequately wet at all times until disposed of; and

(a). the RACM and any ACD shall be adequately wet, and contained in leak-tight, clear transparent wrapping; and

(b). the leak-tight, clear transparent wrapping shall be sealed and labeled according to Clause J.1.a.iv of this Section during all loading and unloading operations, transportation, and during storage;

iv. it is category II nonfriable ACM and the probability is low that the materials will become RACM.

b. - b.ii. …

c. When RACM is removed during a response action or stripped from a facility component while it remains in place in the facility, adequately wet the RACM prior to and during the response action or the stripping operation. The *work area controls* as defined in Subsection B of this Section shall be employed to prevent the release of ACM to the outside air, and the controlled work area shall, when feasible, be visible to inspectors outside the work area (i.e., transparent window which is easily accessible).

i. In renovation operations, wetting is not required only if:

c.i.(a). - d.(ii). ...

e. For large facility components such as reactor vessels, large tanks, and steam generators, but not beams (which shall be handled in accordance with Subparagraphs F.3.b, c, and d of this Section), the RACM is not required to be stripped if the following requirements are met:

i. the component is removed, transported, stored, disposed of, or reused without disturbing or damaging the RACM;

ii. the component is encased in a leak-tight, clear, transparent wrapping; and

iii. the leak-tight, clear, transparent wrapping is labeled according to Clause J.1.a.iv of this Section during all loading and unloading operations, transportation, and during storage.

f. - f.iii. …

iv. RACM contained in leak-tight, clear, transparent wrapping that has been removed in accordance with Subclause F.3.c.i.(a) of this Section need not be wetted provided written authorization from the administrative authority is maintained on site during this exception to the wetting requirements.

g. …

i. The owner/operator need not comply with Clause F.3.b.i of this Section and the wetting provisions of Subparagraph F.3.c of this Section, provided written authorization from the administrative authority is maintained on-site during this exception to the wetting requirements.

ii. - iii. …

h. Personnel and Accreditation

i. No demolition or renovation activity that disturbs RACM or ACDA shall be conducted at a facility regulated by this Subsection unless at least one asbestos abatement contractor/supervisor trained in accordance with Subsection P of this Section is physically present.

ii. All asbestos abatement workers who are performing demolition or renovation activity that disturbs RACM or ACDA shall be trained in accordance with Subsection P of this Section and supervised by a trained asbestos contractor/supervisor.

iii. Contractor/supervisors and workers employed by a contractor licensed by the Louisiana State Licensing Board and performing demolition or renovation activity that disturbs RACM or ACDA shall be accredited in accordance with Subsection P of this Section.

iv. Evidence of the required training or accreditation shall be made available for inspection by the administrative authority at the demolition or renovation site.

Evidence of required training or accreditation shall include, but not be limited to, the appropriate training certificates, DEQ-issued identification card or accreditation certificates. For contracted abatement personnel, evidence of accreditation shall be made available for inspection by the administrative authority at the demolition, renovation, response action, or ACDA site.

i. …

j. If a facility or residential structure is demolished by intentional burning, including activities related to the training of fire personnel, testing firefighting materials, or equipment, all RACM including category I and category II nonfriable ACM shall be removed in accordance with this Section before burning.

k. There shall be no discharge of asbestos contaminated liquids from the demolition, renovation, response action, or ACDA which are contaminated with asbestos material if it is reasonably anticipated that such asbestos may become airborne.

l. Prior to completion of a renovation, demolition, ACDA, or response action involving RACM, the work area (described area where the renovation, demolition, response action, or ACDA occurs) shall be cleaned by:

i. - ii. …

m. Within 24 hours after the demolition, renovation, response action, or ACDA has ended and the work area has been cleaned in accordance with Subparagraph F.3.l of this Section, notify by fax or email the DEQ regional office responsible for inspecting the project site of the conclusion of the cleanup. Only after the DEQ has been notified of project completion will the abatement activity be complete.

n. After completion of a demolition activity, where no load-supporting structural member of a facility is left, no asbestos-containing floor covering or asbestos-containing mastic shall remain on surfaces where the material has the potential to become RACM.

G. Standard for Spraying. The owner or operator of an operation in which asbestos-containing materials are spray applied shall comply with the following requirements.

1. For spray-on application on buildings, structures, pipes, and conduits, do not use material containing more than one percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy, except as provided in Paragraph G.3 of this Section.

2. For spray-on application of materials that contain more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized light microscopy, on equipment and machinery, except as provided in Paragraph G.3 of this Section.

G.2.a. - I.4. …

a. mark vehicles used to transport ACWM during the loading and unloading of waste so that the signs are visible. The markings shall:

i. be displayed in such a manner and location that a person can easily read the legend and;

ii. conform to the requirements for signs specified in 29 CFR 1910.145(d)(4); and

iii. display warning signs and labels with letter sizes and styles of sufficient size and contrast so as to be readily visible and legible as specified in 29 CFR 1926.1101(k)(8)(i-vi);

b. for off-site disposal, provide a copy of the waste shipment record (ADVF) described in Subparagraph I.5.a of this Section, to the disposal site owner or operator at the same time as the ACWM arrives at the disposal site;

5. for all ACWM transported off the facility site:

a. the owner or operator shall maintain a copy of the asbestos waste shipment record~~s~~, using an ADVF form, which includes the following information:

i. the name, DEQ identification number, and physical address of the waste generator, and project location;

ii. the quantity of the ACWM shipped in cubic yards;

iii. the name and telephone number of the recognized asbestos disposal facility owner or operator;

iv. the name and physical site location of the disposal facility;

v. the date the waste was transported from the project location;

vi. the names, DEQ identification number, and telephone number of the transporter(s); and

5.vii. - 6. ...

J. Standard for Waste Disposal for Manufacturing, Fabricating, Demolition, Renovation, Major Fiber Release Episodes, ACDA, Response Actions, and Spraying Operations. Each owner or operator of any source covered under the provisions of Subsection E, F, or G of this Section shall comply with the following provisions.

1. Discharge no visible emissions to the outside air during collection, processing (including incineration), packaging, or transporting or deposition of any asbestos-containing waste material generated by the source, and use one of the emission control and waste treatment methods specified in Subparagraphs J.1.a-d of this Section. The ACWM shall be maintained as intact as practicable. The ACWM shall not be needlessly fragmented or crushed.

a. - a.ii. …

iii. after wetting, seal all asbestos-containing waste material in leak-tight, clear, transparent containers (i.e., bags) while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight, clear, transparent wrapping, ensuring that the ACWM is securely wrapped and sealed. If utilizing plastic drums to contain ACM, the transparent wrapping requirement is not necessary. If drums are used to store bagged material, the bags must be transparent;

iv. label the containers or wrapped materials specified in this Subsection using warning labels specified by the Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) asbestos construction standard, 29 CFR 1926.1101(k)(8)(i)-(vi). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible;

v. …

vi. store all wrapped and contained asbestos-containing waste material in a labeled, secured area away from the public, where it will not be subject to disturbance or tampering until it can be transported to a recognized asbestos landfill (RAL). Disposal of ACWM shall comply

with any other applicable requirements, including but not limited to appropriate hazardous waste (LAC 33:V) and solid waste (LAC 33:Part VII) regulations. In particular:

(a). RACM shall not be disposed in a Louisiana type III (construction and demolition) landfill or processed in a composting facility;

(b). Louisiana landfills accepting ACWM shall be properly permitted or authorized under appropriate regulations and recognized pursuant to this Section to accept the waste;

(c). disposal of ACWM in an out of state landfill shall be in an RAL, as defined in this section and authorized by that state's authority to accept ACWM.

[NOTE: Although landfills are permitted to accept asbestos wastes, a landfill should be contacted prior to transport to the solid waste facility to verify that the ACWM will be accepted and whether the facility has other requirements prior to disposal at that location.]

b. - b.ii. …

c. For facilities demolished where the RACM is not removed prior to demolition according to Clauses F.3.a.i, ii, iii, and iv of this Section or for facilities demolished according to Subparagraph F.1.c or d of this Section, avoid crushing the ACM and adequately wet asbestos-containing waste material at all times prior to, during, and after demolition and keep wet during handling, storage, and loading for transport to a disposal site. The ACWM shall be maintained as intact as practicable. The ACWM shall not be needlessly fragmented or crushed. Asbestos-containing waste materials covered by this Subparagraph shall be sealed in leak-tight containers or leak-tight, clear transparent wrapping then transported and disposed of at a solid waste Type I or Type II or hazardous waste landfill authorized to accept RACM.

d. Use an alternative emission control and waste treatment method that has received prior written approval by the administrative authority according to the procedure described in Subparagraph I.3.b of this Section.

e. As applied to demolition and renovation, the requirements of Paragraph J.1 of this Section do not apply to Category I and Category II nonfriable ACM waste that did not become RACM prior to or during the course of removal, storage, transportation, and disposal.

2. All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

a. …

b. an approved site that converts RACM and ACWM into nonasbestos (asbestos-free) material according to the provisions of Subsection L of this Section;

c. the requirements of Paragraph J.2 of this Section do not apply to Category I nonfriable ACM that is not RACM.

3. Mark vehicles used to transport ACWM during the storage, loading, and unloading of waste so that the signs are visible. The markings shall conform to the requirements in Clauses I.4.a.i, ii, and iii of this Section.

4. For all ACWM transported off the facility site:

a. the owner, operator, and transporter shall maintain waste shipment records, using an ADVF Form, and include the following information:

i. the name of the waste generator, DEQ identification number, physical address, and telephone number of the waste generator and project location;

ii. the name and address of the administrative authority responsible for administering the asbestos Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP) program;

iii. the approximate quantity of ACWM in cubic meters (cubic yards);

iv. the name and telephone number of the disposal site owner or operator;

v. the name and physical site location of the disposal site;

vi. the date transported;

vii. the name, address, and telephone number of the transporter(s) and;

viii. a certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations;

J.4.b. - K.1.c. …

2. unless a natural barrier adequately deters access by the general public, install and maintain warning signs and fencing as follows, or comply with Subparagraph K.1.b. of this Section:

a. display warning signs at all entrances and along the property line of the site or along the perimeter of the sections of the site where ACWM was deposited, at intervals of 165 feet or less. The warning sign shall:

i. be displayed in such a manner and location that a person can easily read the legend;

ii. conform to the requirements for signs specified in 29 CFR 1910.145(d); and

iii. display warning signs and labels using the appropriate legend with letter sizes and styles of sufficient size and contrast so as to be readily visible and legible as specified in 29 CFR 1926.1101(k)(7);

b. - c. …

3. the owner or operator may use an alternate control method that has received prior approval by the administrative authority rather than comply with the requirements of Paragraph K.1 or 2 of this Section;

4. - 5.b.…

c. the site is subject to LAC 33:III.Chapter 51, Subchapter M.

L. - M.3.…

4. for sources subject to Subsections I and J of this Section:

a. …

b. the average volume of asbestos-containing waste material disposed of, measured in yd^3/day;

M.4.c. - N.1. …

2. Unless a natural barrier adequately deters access by the general public, warning signs and fencing shall be installed and maintained as follows.

a. Warning signs shall be displayed at all entrances, and along the property line of the site or along the perimeter of the sections of the site where ACWM is deposited, at intervals of 165 ft or less. The warning signs shall:

i. ...

ii. conform to the requirements for signs specified in 29 CFR 1910.145(d); and

iii. display warning signs and labels using the appropriate legend with letter sizes and styles of sufficient size and contrast so as to be readily visible and legible as specified in 29 CFR 1926.1101(k)(7).

2.b - c. …

3. At the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos-containing waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

a. be covered with at least 6 inches of compacted nonasbestos-containing waste material; or

b. …

4. Rather than meet the no visible emission requirement of Paragraph N.1 of this Section, use an alternative emissions control method that has received prior written approval by the administrative authority according to the procedures of Subparagraph I.3.b of this Section.

5. For all ACWM received, the owner or operator of the active waste disposal site shall:

a. maintain waste shipment records using the ADVF form and including the following information:

i. …

ii. the name, DEQ identification number, address, and telephone number of the transporter(s);

iii. the quantity of ACWM in cubic yards and date received;

iv. the presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers. Report in writing to the administrative authority identified in the ADVF, by the following working day, the presence of a significant amount of improperly enclosed or uncovered waste. Submit a copy of the ADVF along with the report; and

v. the date buried;

b. - d. …

6. Maintain, until closure, records of the location, depth and area, and quantity in cubic yards of ACWM within the disposal site on a map or diagram of the disposal area.

N.7. - O.4.c. …

P. Training and Accreditation Requirements

1. Asbestos Discipline

a. Worker. A person required by this Section to be trained as a worker shall comply with Subsections B, C, and D of LAC 33:III.2799.Appendix A—Agent Accreditation Plan, in order to perform response actions, operations and maintenance, demolition or renovation activities that disturb RACM, and ACDA in a facility as required by this Section.

b. Contractor/Supervisor. A person required by this section to be trained as a contractor/supervisor-shall comply with Subsections B, C, and D of LAC 33:III.2799, Appendix A—Agent Accreditation Plan, in order to supervise response actions, operations and maintenance, and demolition or renovation activities that disturb RACM, and ACDA in a facility as required by this Section.

c. Inspector. A person shall be accredited as an inspector in accordance with LAC 33:III.2799, Appendix A—Agent Accreditation Plan in order to inspect for asbestos materials in facilities regulated by this Section.

d. Air Monitor Personnel. A person shall be accredited as an asbestos contractor/supervisor in accordance with LAC 33:III.2799, Appendix A—Agent Accreditation Plan to conduct air monitoring for an asbestos abatement project or related activity in facilities regulated by this Section.

2. Contracted Personnel. When RACM is disturbed in any manner, including removal, encapsulation, enclosure, maintenance, or repairs by contracted personnel, those persons shall be accredited by DEQ in accordance with LAC 33:III.2799, Appendix A—Agent Accreditation Plan in one of the applicable disciplines: worker, contractor/supervisor, inspector, and air monitor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:2095 (October 2007), LR 34:1893 (September 2008), amended by the Office of the Secretary, Legal Division, LR 40:519 (March 2014).

Herman Robinson
Executive Counsel

1403#009

RULE

Office of the Governor
Board of Pardons
Committee on Parole

Conditions of Parole (LAC 22:XI.Chapter 9)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons, Committee on Parole has amended its rules in LAC 22:XI.903, 904, 907, and 909. These rule changes include technical revisions; §903 removes enumerated listing of sex offenses as these are specifically enumerated in statute; §§904, 907, and 909 are repealed as sex offender registration, notification, and special condition requirements are specifically detailed in statute.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XI. Committee on Parole
Chapter 9. Conditions of Parole
§903. Sex Offenders; General

A. *Sex Offender*—an offender/parolee who has been convicted for the commission, attempted commission, or conspiracy to commit any offense as cited in R.S. 15:541, or the equivalent, if committed in another jurisdiction.

B. The committee will consider any offender who has been convicted of a sex offense, when the law permits parole consideration for that offense and the offender is otherwise eligible.

C. In addition to any other notification requirement imposed by law, any sex offender released on parole shall be

required to register and provide notification as a sex offender in accordance with R.S. 15:542 et seq.

D. Any sex offender released on parole shall be required to comply with the prohibitions and conditions of parole detailed in 15:538 et seq.

E. Any sex offender released on parole shall be required to comply with conditions of R.S. 15:574.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013), LR 40:527 (March 2014).

§904. Sex Offenders; General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2271 (August 2013), repealed LR 40:528 (March 2014).

§907. Additional Notification and Registration Requirements for Sex Offenders if Victim Is under Age 18

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013), repealed LR 40:528 (March 2014).

§909. Special Conditions—Sex Offenders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013), repealed LR 40:528 (March 2014).

Sheryl M. Ranatza
Chairman

1403#077

RULE

Office of the Governor
Division of Administration
Racing Commission

Corrupt and Prohibited Practices (LAC 35:I.1797)

The Louisiana State Racing Commission hereby amends LAC 35:I.1797 as follows.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 17. Corrupt and Prohibited Practices
§1797. Penalty Guidelines

A. - B.4. …

a. On ordinary violation(s) of classes IV or V within a 12-month period, the trainer shall be fined $500 on the first violation; $1,000 on the second violation; and on the third and subsequent violations the trainer shall be fined $1000, the purse shall be redistributed and the case referred to the commission for further action.

b. On extraordinary violation(s) of classes IV or V in a manner that might affect the performance of a horse within a 12-month period, the trainer shall be fined $1,000 and the purse shall be redistributed on the first offense. On the second and subsequent violations, the trainer shall be fined $1000, the purse shall be redistributed and the case referred to the commission for further action.

c. On gross violation(s) of classes IV or V in a manner that intends to affect the performance of a horse, the trainer shall be fined not less than $1,000, the purse shall be redistributed and the case referred to the commission for further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:613 (May 1993), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), LR 30:1017 (May 2004), LR 40:528 (March 2014).

Charles A. Gardiner III
Executive Director

1403#010

RULE

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, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2014 (2015 Orleans Parish) tax year.

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 40:528 (March 2014).

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 40:529 (March 2014).

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 40:530 (March 2014).

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*				
Producing Depths	Cost—New By Depth, Per Foot		15 percent of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	N/A	N/A	N/A	N/A
1,250-2,499 ft.	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

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
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
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

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
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)	
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

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
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
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

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
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	
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

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
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
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

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
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

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	**$ Cost New**
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.

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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
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
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.

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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 40:536 (March 2014).

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.

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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 40:538 (March 2014).

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 40:538 (March 2014).

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 40:539 (March 2014).

James D. "Pete" Peters
Chairman

1403#031

RULE

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 have amended 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 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 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 40:539 (March 2014).

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

1403#066

RULE

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 have amended 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 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 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 40:540 (March 2014).

Kathy H. Kliebert
Secretary

1403#067

RULE

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 has amended 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 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 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 by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014).

Kathy H. Kliebert
Secretary

1403#068

RULE

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 has amended LAC 50:II.20003 and adopted 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 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 II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20003. Cost Reports
[Formerly LAC 50:VII.1303]

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 40:541 (March 2014).

§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 40:541 (March 2014).

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

1403#069

RULE

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 has amended 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 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 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 40:542 (March 2014).

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 40:542 (March 2014).

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 40:543 (March 2014).

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 40:543 (March 2014).

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 40:543 (March 2014).

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

1403#070

RULE

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 has adopted §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 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 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 40:544 (March 2014).

§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 40:544 (March 2014).

Kathy H. Kliebert
Secretary

1403#071

RULE

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 has amended 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 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 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 40:545 (March 2014).

Kathy H. Kliebert
Secretary

1403#072

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Experimental Fisheries Permit (LAC 76:VII.701)

The Wildlife and Fisheries Commission does hereby adopt the following changes to remove the requirement for a special permit for the harvest of shad and skipjack with an experimental seine and gill net and to remove the experimental dipnet permit.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 7. Experimental Fisheries Program
§701. Permits

A. - D.7. ...

8. - 10.j. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571, R.S. 56:322.1, and RS 56:322.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), LR 12:847 (December 1986), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 15:1098 (December 1989), LR 28:1601 (July 2002), LR 29:49 (January 2003), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:947 (April 2005), LR 40:545 (March 2014).

Ronald Graham
Chairman

1403#021

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Freshwater Permits (LAC 76:VII.183)

The Wildlife and Fisheries Commission repeals the requirement for a special permit for commercial fish seining on Lake Louis, Catahoula Parish.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sport and Commercial Fishing
§183. Commercial Fish Seining Regulations, Lake Louis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:1144 (November 1996), repealed LR 40:545 (March 2014).

Ronald Graham
Chairman

1403#017

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Game Fish Fingering Aquaculture
(LAC 76:VII.159 and 907)

The Wildlife and Fisheries Commission does hereby adopt the following changes.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§159. Game Fish Fingerling Aquaculture—Rules and Permits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(1)(b) and R.S. 56:327(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:2155 (November 1998), repealed by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:546 (March 2014).

Chapter 9. Aquaculture

§907. Game Fish Fingerling Aquaculture—Rules and Regulations
[Formerly LAC 76:VII.159]

A. A fish farmer raising and selling live game fish fingerlings must obtain an annual domesticated aquatic organism license issued by the Department of Wildlife and Fisheries.

B. Live game fish fingerlings sold from an approved fish farm shall be subject to all applicable statute and rule limitations, if any.

C. A fish farmer raising and selling live game fish fingerlings must maintain a record of all sales and shipments of fish and these records must be open for inspection by designated employees of the Department of Wildlife and Fisheries.

D. Game fish farmers transporting game fish fingerlings for sale must possess a bill of lading which shall accompany each shipment showing species of fish contained in the shipment, number, the origin of the payload, destination of the shipment, the name of the consignee and consignor, and the grower's name and domesticated aquatic organism license number.

E. All trucks transporting game fish fingerlings for sale must have the words "GAME FISH FARMER" prominently displayed with a minimum of 3-inch block letters.

F. Fish farmers holding a domesticated aquatic organism license are not granted any fishing privileges greater than those stated in title 56 of the *Louisiana Revised Statutes* and must abide by all statutes pertaining to domestic fish farming.

G. The department shall have the authority to cancel sales or to confiscate and destroy shipments of game fish fingerlings that are determined by department personnel to have fish diseases or parasites that would endanger native fish populations. Game fish farmers must agree to allow department personnel or a department approved contractor to conduct unannounced random inspections of the transport vehicle. Those individuals may remove or take fish samples for analysis and/or inspection.

H. Genetic purity shall be maintained and game fish fingerlings produced shall not be genetically manipulated or altered in any way without prior approval of the department, except for hybrid crosses within the genera of *Lepomis*, *Pomoxis*, *Micropterus*, or *Morone*, or fish produced with polyploid chromosomes.

I. The secretary may revoke any or all licenses issued for the raising and selling of game fish fingerlings if the licensee fails to adhere to any of the above regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327 (A)(2), R.S. 56:411, and R.S. 56:412.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:2155 (November 1998), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:546 (March 2014).

Ronald Graham
Chairman

1403#019

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Natural and Scenic River Systems
(LAC 76:IX.105, 115 and 117)

The Louisiana Wildlife and Fisheries Commission hereby adopts the following changes to regulations for the natural and scenic river systems.

Title 76
WILDLIFE AND FISHERIES
Part IX. Natural and Scenic River Systems

Chapter 1. Administration of the Natural and Scenic Rivers and Historic and Scenic Rivers

§105. Applicability of These Regulations

A. These regulations shall apply to all uses proposed to be undertaken on the stream or on adjacent lands within 100 feet of a designated system stream by any "person" whether or not concurrence, authorization, or matching funding is provided by any state agency, local governing authority, political subdivision, or special district of the State of Louisiana, unless restriction of those uses are exempted from regulations pursuant to the provisions of R.S. 56:1852(B). These regulations shall further apply to all activities more than 100 feet from designated system streams that have potential to significantly impact the ecological integrity of a system stream.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1850 and 56:1852(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Department of Wildlife and Fisheries, Office of the Secretary, LR 17:680 (July 1991), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:546 (March 2014).

§115. Prohibited Activities

A. The following uses of a system river, and all uses functionally related thereto, shall be absolutely prohibited:

1. channelization;
2. clearing and snagging;
3. channel realignment;
4. reservoir construction;
5. commercial cutting or harvesting of trees or timber in violation of the provisions of R.S. 56:1854;
6. use of a motor vehicle or other wheeled or tracked vehicle on a designated system stream, except for permitted uses, and direct crossings by immediately adjacent landowners, lessees, or other persons who have written permission from the landowner to access adjoining tracts of land, for noncommercial activities in a manner that does not directly and significantly degrade the ecological integrity of the stream. Written permission must be in the person's possession and include the landowner's contact information; and
7. any use requiring a permit where a permit has not been obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1853.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Department of Wildlife and Fisheries, Office of the Secretary, LR 17:682 (July 1991), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:547 (March 2014).

§117. Permitted Activities

A. All activities that may detrimentally affect or significantly degrade the wilderness quality, aesthetic values, or the ecological integrity of a system river shall be subject to a permit except:

1. those prohibited uses set forth in §115 of these regulations;
2. normal activities of private landowners within the boundaries of their property as provided by R.S. 56:1852(B); and
3. harvesting of trees in accordance with R.S. 56:1854, provided that prior notification of any commercial harvesting of trees shall be given to the Louisiana Office of Forestry.

B. Activities requiring permits shall include, but not be limited to, the following activities:

1. crossings by roads, bridges, railroads, pipelines or utilities;
2. sharing of land and airspace by such roads, railroads, pipelines and utilities;
3. point source discharge of any pollutant (prior to any person applying to the Department of Environmental Quality for a permit to discharge any pollutant into a system river, the person shall give written notice to the administrator);
4. prospecting, drilling and mining for nonrenewable natural resources;
5. structures and buildings of any kind or size;
6. piers, boat slips, bulkheads and landings;
7. commercial uses, activities and access;
8. commercial signs or other forms of outdoor advertising that are visible from the waters within a natural and scenic river;
9. water withdrawals, except for withdrawals made by an individual, adjacent property owner solely for residential purposes;
10. mooring of houseboats or floating camps on system streams except:
    a. when the houseboat or floating camp is moored to a legally permitted piling, pier or bulkhead or moored to trees using connections that do not damage the trees and with the written permission of the owner of the trees. Written permission must be physically on the houseboat or floating camp and include the owner's contact information; and
    b. houseboats moored on a System Stream shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the system stream is located verifying that it has an approved sewerage disposal system on board. Furthermore, all occupants of houseboats and floating camps when on a system stream must utilize an approved sewerage disposal system.

C. Application. The administrator shall provide an application to any person wishing to apply for a permit. Any person who proposes to make any permitted use of a system river, shall submit one complete original application to the administrator. Any documents larger than 8 1/2" x 14" must be submitted digitally in a department approved digital format. The application shall contain:

1. name, address and telephone numbers of the applicant;
2. names and addresses of adjoining property owners whose property also adjoins the waterway;
3. background information on the proposed use;
4. a detailed description of the proposed use;
5. full description of any portion of the project which is under development or is completed;
6. photographs and maps of the area where the uses would be made;
7. full and thorough evaluation of the use's effect on the criteria listed in Subsection F below;
8. any alternatives to the proposed action;
9. description of steps taken to minimize detrimental effects to the system river, and measures taken to ensure preservation of the system;
10. identification of all authorizing local, state, and federal agencies and all permits applied for or obtained from such agency; and
11. description of any noncompliance by applicant, adjudicated within Louisiana, regarding the Louisiana Scenic Rivers Act, the United States Wild and Scenic River Act, and all regulations and ordinances pertaining to these acts.

D. - H.3. …

I. Time Period for Review of the Application. The administrator shall make a decision whether to grant or deny the permit within 30 days after the adjournment of the hearing or the end of the written comment period, whichever is latest.

J. - Q. …

R. Appeals of Final Decision. Any person who is denied a permit by the department may institute legal proceedings against the department in the Nineteenth Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1844, 56:1849, 56:1852 and 56:1854.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Department of Wildlife and Fisheries, Office of the Secretary, LR 17:682 (July 1991), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:547 (March 2014).

Ronald Graham
Chairman

1403#023

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Old River Lake Permits (LAC 76:VII.131)

The Wildlife and Fisheries Commission does hereby repeal the requirement for a special permit for commercial fish seining on Old River Lake, Concordia Parish.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§131. Prohibits Fish Seining in Designated Places

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:281 (April 1989), repealed LR 40:548 (March 2014).

Ronald Graham
Chairman

1403#020

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Scuba Season—Toledo Bend (LAC 76:VII.113)

The Wildlife and Fisheries Commission does hereby repeal the scuba diving game fish season on Toledo Bend.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§113. Scuba Diving Game Fish Season

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:320(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 11:706 (July 1985), amended LR 15:393 (May 1989), repealed LR 40:548 (March 2014).

Ronald Graham
Chairman

1403#022

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Special Permits—Lake Bruin (LAC 76:VII.125)

The Wildlife and Fisheries Commission does hereby adopt the following changes to remove the requirement for a special permit for commercial fishing on Lake Bruin in Tensas Parish.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§125. Lake Bruin

A. The Wildlife and Fisheries Commission hereby establishes a special recurring commercial fishing season, allowing the use of certain nets and slat traps in Lake Bruin, Tensas Parish, Louisiana. The season will commence each year at sunrise on November 1 and close at sunset on the last day of February the following year.

1. Commercial fishing with certain nets and slat traps will be allowed on Lake Bruin only during the above described special season and only by licensed commercial fishermen the use of nets in Lake Bruin will be limited to gill and trammel nets greater than or having at least a minimum mesh of 3 1/2-inch bar and 7-inch stretch.

2. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured may be removed during daylight hours only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22, R.S. 56:326.3 and R.S. 56:402.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 13:502 (September 1987), amended LR 18:294 (March 1992), LR 40:548 (March 2014).

Ronald Graham
Chairman

1403#018

RULE

Workforce Commission
Office of Unemployment Insurance Administration

Determining Whether Workers are Employees or Independent Contractors (LAC 40:IV.375)

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., the Louisiana Workforce Commission has adopted §375. The purpose of promulgating §375 is to list the factors to consider in determining whether workers are properly classified as independent contractors or employees for the purposes of unemployment insurance contributions.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Subpart 1. Board of Review
Chapter 3. Employment Security Law
§375. Determining Whether Workers are Employees or Independent Contractors

A. The totality of the circumstances will be considered in determining whether workers are properly classified as employees or independent contractors, including the following factors regarding control and direction of each individual worker's position under R.S. 23:1472(12)(E)(I).

1. Behavioral Control. Facts that show a right to control or direct how the worker does the task for which the worker is hired. The type and degree of instruction given to the worker shall be considered including, but not limited to:

a. when and where to do the work;

b. what tools or equipment to use;

c. what workers to hire or to assist with the work;

d. where to purchase supplies and services;

e. what work must be performed by a specified individual;

f. what order or sequence to follow in performing the work;

g. how work results are achieved;

h. whether the worker is hired and discharged under specific terms of an agreement or at-will;

i. the extent to which the worker is subjected to pre-employment testing, credentialing, resume verification, background checks, drug testing and/or pre-employment physicals;

j. the extent to which the job opening was represented as employment; and

k. training given the worker.

2. Financial Control. Facts that show whether there is a right to control or direct the business aspects of the worker's job including, but not limited to:

a. the extent to which the worker has unreimbursed business expenses;

b. the extent of the worker's investment in the tasks beyond the worker's own time;

c. the extent to which the worker makes services available to the relevant market;

d. whether payment is made based solely upon time worked or includes other factors;

e. whether the worker tracks time worked and calculates amounts due; and

f. the extent to which the worker can realize a profit or loss.

3. Type of Relationship. Facts that show the nature of the parties' relationship including, but not limited to:

a. written contracts describing the relationship the parties intended to create;

b. whether the worker is provided employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay;

c. whether the relationship is of a definite term; and

d. the extent to which services performed by the worker are similar to duties of employees at the worksite.

4. A prior determination by a taxing authority regarding the relationship.

5. As used in R.S. 23:1472(12)(e), the term *any control or direction* shall include, but not by way of limitation, direction or control exercised at the worksite by any person authorized to direct or control the work performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653 et seq.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 40:549 (March 2014).

Curt Eysink
Executive Director

1403#074

RULE

Workforce Commission
Office of Unemployment Insurance Administration

Employer Registration When Required (LAC 40:IV.317)

Pursuant to the authority granted in R.S. 23:1653 and R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Workforce Commission has adopted §317. This text has been added to clarify that all employers who pay wages to workers in this state must register with the Louisiana Workforce Commission within 30 days of paying wages to a worker in this state regardless of the employer's domicile or the state in which the employer normally pays or reports wages paid.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Subpart 1. Board of Review
Chapter 3. Employment Security Law
§317. Employer Registration When Required

A. Any employing unit who pays wages to a worker within this state, or who pays wages to a worker for work performed in this state, or pays wages to a worker who is domiciled in this state, must, within 30 days of the first payment to a worker in this state or for work performed in this state, register as an employer with the Louisiana Workforce Commission.

B. The employing unit must register regardless of whether it:

1. has registered in another state;
2. files contribution reports in another state;
3. believes it is an employer subject to the Louisiana Employment Security Law;
4. pays contributions in another state; or
5. believes its workers are independent contractors.

C. After the employing unit has registered, the Louisiana Workforce Commission will determine whether the employing unit is an "employer" within the meaning of R.S. 23:1472(11) and whether the individual(s) to whom wages were paid are "employees" within the meaning of R.S. 23:1472(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1491 and R.S. 23:1513.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 40:549 (March 2014).

Curt Eysink
Executive Director

1403#073

Notices of Intent

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
and
Department of Children and Family Services
Office of the Secretary

Community and Family Support System
Flexible Family Fund (LAC 48:I.Chapter 161)

The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amend §16103, §16105, §16107, §16109, §16111, §16113 and §16115 of Part I concerning the community and family support system flexible family fund as authorized by R.S. 28:821 and as directed by House Bill 1 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the community and family support system (R.S. 28:821 et seq.). The original Rule was promulgated to implement the cash subsidy program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amended the provisions governing the community and family support system flexible family fund by introducing a universal screening protocol for all children with identified qualifying exceptionalities for severity of functional limitations and changed terminology for qualifying exceptionalities to reflect current usage. The Rule also changed the name of the program from cash subsidy to flexible family fund. (*Louisiana Register*, Volume 37, Number 9).

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals promulgated an Emergency Rule which amended the provisions governing the flexible family fund to enact financial eligibility criteria for children receiving a home and community-based services waiver (*Louisiana Register*, Volume 38, Number 9). This Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 11. Community and Family Support System
Chapter 161. Community and Family Support System—Flexible Family Fund

§16103. Definitions

* * *

Family—the basic *family* unit consists of one or more adults and children, if any, related by blood, marriage, adoption, and residence in the same household.

Family Income—money or its equivalent in exchange for labor or services, from the sale of goods or property, or as profit from financial investments, benefits, entitlement, and any income that is not from working or from whatever source of gross income, which means all income from whatever source derived including (but not be limited to) the following:

1. interest;
2. rents;
3. royalties;
4. dividends;
5. alimony and separate maintenance payments;
6. annuities;
7. income from life insurance and endowment contracts;
8. pensions; and
9. income from an interest in an estate or trust.

***

Proof of Family Income—documentation of income, which for the flexible family fund, is a copy of the most recent tax return and all schedule attachments for each family member.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), LR 40:

§16105. Application Process

A. - B. …

C. For the application to be complete, the documentation listed in §16103 of this Rule, which identifies a qualifying exceptionality and proof of family income for families whose children receive a home and community-based services waiver, must accompany the application for the flexible family fund, and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the flexible family fund shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality, to

determine financial eligibility for families whose children receive waiver services, to determine that the child is appropriately served by the agency and to ensure that applications are routed to the appropriate agency. When family income exceeds 650 percent of the federal poverty level and the child is a home and community-based services waiver recipient, the child will be ineligible for participation in the flexible family fund.

E. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2585 (September 2011), LR 40:

§16107. Determining Children Eligible for the Flexible Family Fund

A. - F. …

G. Children who receive a home and community-based services waiver and whose family income is at or less than 650 percent of the federal poverty level are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:

§16109. Children Ineligible for the Flexible Family Fund

A. - A.2. …

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired; and

4. children receiving a home and community-based services waiver and whose family income exceeds 650 percent of the federal poverty level.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:

§16111. Eligibility Determination

A. - D. …

E. There shall be financial eligibility criteria for the flexible family fund for recipients of a home and community-based services waiver.

1. DHH will determine if recipients of a home and community-based services waiver meet the financial eligibility requirements for the flexible family fund.

2. Recipients of a home and community-based services waiver whose family income exceeds 650 percent of the federal poverty level will be excluded from the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:

§16113. Payment Guidelines

A. - C. …

D. The family of recipients of a home and community-based services waiver is required to report to OCDD accurate and current family income. If a flexible family fund recipient becomes certified for a home and community-based services waiver, the family is required to report this change in status to OCDD and submit proof of family income. Documentation must be received by OCDD within 30 days of the change in income or home and community-based services waiver recipient status.

E. If it is discovered that the family of the recipient of a home and community-based services waiver sent in inaccurate family income eligibility documentation or that the family did not update OCDD with changes in income, and the recipient no longer meets the financial eligibility requirements as defined in §16111 of this Rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility. If it is discovered that the family of the flexible family fund recipient did not update OCDD of certification of home and community-based services and the recipient did not meet the family financial eligibility requirements §16111 of this Rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:

§16115. Terminations

A. - A.6. …

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the agency administering the flexible family fund and the requirement to provide required documentation, including proof of income for families of children receiving a home and community-based services waiver;

8. child's exceptionality or degree of severity no longer meets eligibility criteria;

9. child attains age 18 years;

10. responsible care giver fails to maintain the child in an approved educational program; or

11. income for the family of the child receiving a home and community-based services waiver exceeds 650 percent of the federal poverty level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), 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 significant impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no significant impact on child, individual, and 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 Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He 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 Thursday, April 24, 2014, immediately following Medicaid's 9:30 a.m. public hearing 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: Community and Family Support System—Flexible Family Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Louisiana Administrative Code (LAC) 48, Part I, Chapter 161, Sections 16103, 16105, 16107, 16109, 16111, 16113 and 16115 to enact financial eligibility criteria in eligibility determination for the Community and Family Support System Flexible Family Fund (Cash Subsidy) as authorized by Louisiana Revised Statutes (R.S.) 28:821 and as directed by Act 13 of the 2012 Regular Legislature Session.

As a result of a budgetary shortfall in FY 2013 and action to avoid a budget deficit, the Department of Health and Hospitals (DHH), Office of Citizens with Developmental Disabilities (OCDD) amended the provisions governing the Flexible Family Fund through an October 1, 2012 emergency rule. The proposed rule continues the provision of the emergency rule to enact financial eligibility criteria in eligibility determination for Flexible Family Fund for children receiving a home and community-based services waiver (Children's Choice or NOW). Therefore, families earning over 650% of the federal poverty income guidelines and whose child receives both waiver services and a Flexible Family Fund stipend will no longer be eligible to receive the Flexible Family Fund stipend.

OCDD anticipates that the implementation of this proposed rule will result in an estimated State General Fund savings of $170,280 ($258 per month Flexible Family Fund stipend x 12 months x 55 ineligible families) in FY 13-14, FY 14-15, and FY 15-16. Also, OCDD anticipates the administrative expenses for promulgation of this proposed rule, for printing of the Notice of Intent and Final Rule in the Louisiana Register, is $672 State General Fund in FY 13-14.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will not affect revenue collection for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the October 1, 2012 emergency rule that impacted an estimated 55 families that were no longer eligible to receive the Flexible Family Fund stipend ($258 per month) in FY 12-13. OCDD does not anticipate any additional families will be impacted in FY 13-14, FY 14-15, and FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Mark A. Thomas	John D. Carpenter
Acting Assistant Secretary	Legislative Fiscal Officer
1403#033	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.503, 505, 702, 703, 704, and 707)

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 1566—Pupil Progression Policies and Procedures:* §503, Regular Placement; §505, Other Placement Requirements; §702, Promotion of LAA 1 Eligible Students; §703, Promotion of LAA 2 Eligible Students; §704, Retention; and §707, Exceptions to High Stakes Policy. The proposed policy revisions transfer promotional decisions for fourth and eighth grade students with disabilities who meet LEAP alternate assessment level 2 (LAA 2) eligibility criteria from the School Building Level Committee (SBLC) to the Individualized Education Program (IEP) team.

Title 28
EDUCATION
Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures
Chapter 5. Placement Policies—General Requirements
§503. Regular Placement

A. Promotion—Grades K-12

1. Promotion from one grade to another for regular students and students with disabilities shall be based on the following statewide evaluative criteria.

a. Each plan shall include the school attendance requirements.

b. Each plan shall include the course requirements for promotion by grade levels.

c. Each plan shall include promotion requirements for LEAP alternate assessments (LAA 1 and LAA 2) eligible students aligned to policies contained in this bulletin.

d. Each plan shall include the requirements for entering the career diploma pathway, including the requirements listed below.

i. The plan shall include requirements for students promoted to the ninth grade career diploma pathway who have not met the LEAP promotional standard for entering the ninth grade. The requirements should include the following.

(a). The student must successfully complete the LEAP summer remediation program in the subject area of the component of the eighth grade LEAP test on which they scored at the *unsatisfactory* level and must take the summer retest.

(b). The student must have achieved a minimum cumulative grade point average of 1.5 on a 4.0 scale for course work required for completion of the eighth grade.

(c). Acceptable Attendance Standards. For the 2009-2010 school year, students must meet the attendance requirements in the pupil progression plan. For 2010-2011 and following, students must meet the state minimum attendance requirements to be eligible to receive grades.

(d). Acceptable Behavior Standards. Students must meet the behavior requirements in the pupil progression plan.

(e). A student must participate in a dropout prevention and mentoring program during his first year in high school as approved by the BESE. Acceptable programs include research based dropout prevention programs such as Jobs for America's Graduates Multi-Year Program, Graduation Coach Program, or the school district may submit a proven effective, research-based dropout prevention and mentoring program other than the two listed above to the DOE for approval by BESE. All programs must include the following components:

(i). an academic catch-up component to address the all area(s) of student deficiency;

(ii). an adult mentoring component with an emphasis on workforce awareness and readiness;

(iii). a work awareness and work readiness skills component;

(iv). a work-based learning component such as job shadowing/job exploration/paid internships.

ii. Every student who seeks to pursue a career diploma shall have the written permission of his/her parent or other legal guardian on the career diploma participation form after a consultation with the school guidance counselor or other school administrator. The student and parent must be informed of the advantages and disadvantages of the different diploma pathways. The signature of the student and parent or guardian indicates that a determination has been made that the pursuit of a career diploma is appropriate and in the best interest of the student. The school principal shall also sign the form acknowledging that appropriate counseling has taken place.

e. Each plan shall include other applicable requirements, including the high stakes policy requirements for entering students in fifth or ninth grade.

B. - E.1.b. …

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 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:

§505. Other Placement Requirements

A. Alternative Schools/Programs

1. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

B. Review of Placement

1. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian.

2. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan.

C. Due Process

1. Due process procedures for teachers, students, and parents shall be specified in each local pupil progression plan as related to student placement. The LEA must assure that these procedures do not contradict the due process rights of students with disabilities as defined in the IDEA-Part B.

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 25:2172 (November 2000), amended LR 26:1433 (July 2000), LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 33:2063 (October 2007), LR 36:2004 (September 2010), LR 40:

Chapter 7. High Stakes Testing Policy
§702. Promotion of LAA 1 Eligible Students

A. Students with disabilities who participate in the LEAP alternate assessment, level 1 (LAA 1) shall have promotion decisions determined by the School Building Level Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

§703. Promotion of LAA 2 Eligible Students

A. The IEP team shall determine the promotion of each fourth and eighth grade student who is eligible for LAA 2 and does not meet the criteria for promotion on statewide

testing based on policies contained in the local pupil progression plan. The promotion decision shall meet the procedural requirements in Subsection B and shall be based on the consideration of information concerning each student's educational needs, including progress toward meeting annual IEP goals, performance on statewide assessment, and the general academic achievement and functional performance of the student.

B. The IEP team of each fourth and eighth grade student who meets the eligibility criteria for LAA 2 shall convene at least twice per year during the student's fourth and eighth grade years.

1. The IEP team shall meet once between the beginning of the last grading period of the previous school year and the end of the first grading period of the current school year to review and, if necessary, revise the student's IEP. The revised IEP shall include measurable annual goals, benchmarks, and short-term objectives in each content area for which the student is eligible for LAA 2.

2. The IEP team shall meet once following the receipt of the student's statewide assessment scores to review and, if necessary, revise the student's IEP and to determine whether the student will be promoted to the next grade level.

C. Participants in the IEP team meetings required by this section may participate by alternative means consistent with the requirements of *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*, §328, Alternative Means of Meeting Participation.

D. LAA 2 eligible students in eighth grade may be promoted to either the ninth grade or the transitional ninth grade.

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 40:

§704. Retention

[Formerly §703]

A. The decision to retain a student in the fourth or eighth grade more than once as a result of his/her failure to achieve the passing standard on the English language arts and mathematics components of LEAP shall be made by the LEA in accordance with the local pupil progression plan which shall include the following.

B. LEAs shall provide a fourth grade transitional program for students meeting the minimum criteria.

1. The purpose of a fourth grade transitional program is to provide a class setting to students who have demonstrated the ability to benefit from a combination of intensive fourth grade remedial work and fifth grade regular coursework. Students in the transitional program may be able to progress to the sixth grade the following year.

2. Minimum criteria for placement into a fourth grade transitional program:

a. the student must score at the *approaching basic/approaching basic* achievement level on the English language arts and mathematics components of LEAP;

b. the student must have met all requirements for promotion from the fourth grade as outlined in the local pupil progression plan; and

c. the student must participate in both the summer remediation program offered by the LEA and the summer retest.

3. Minimum criteria for promotion to the sixth grade from a fourth grade transitional program:

a. the student must be provided remediation in the subject area(s) on which the student scored below *basic* on LEAP as well as instruction in the fifth grade curriculum;

b. the student must score a minimum of *basic/approaching basic* on English language arts and math and a minimum of *approaching basic/approaching basic* on the in science and social studies on the fourth grade LEAP; and

c. the student must have met all requirements for promotion from the fifth grade as outlined in the local pupil progression plan.

C. A student who has repeated the fourth grade and who is 12 years old on or before September 30 may be promoted according to the local pupil progression plan.

D. Students who are repeating the eighth grade due to failure to achieve the passing standard on the eighth grade LEAP may take high school courses except any in a content area in which they scored *unsatisfactory* on the eighth grade LEAP. These students may be housed on a high school campus or a middle school campus.

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 36:2005 (September 2010), amended LR 40:

§707. Exceptions to High Stakes Policy

A. - G.4.a. …

H. - H.1. Repealed.

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 36:2006 (September 2010), 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? Yes.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on 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? No.

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., April 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 1566—Pupil Progression Policies and Procedures

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.

The proposed policy revisions transfer promotional decisions for fourth and eighth grade students with disabilities who meet the LEAP Alternate Assessment Level 2 (LAA 2) eligibility criteria from the School Building Level Committee (SBLC) to the Individualized Education Program (IEP) Team.

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
Deputy Superintendent
1403#011

Evan Braseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Dentistry

Moderate Sedation, Minimal Education Requirements, Facilities, Personnel and Equipment
(LAC 46:XXXIII.Chapter 15)

Editor's Note: This Notice of Intent was printed in the February 20, 2014 edition of the *Louisiana Register* on pages 405 and 406 and is being reprinted to correct a citation error.

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1505, 1509, and 1511.

The Louisiana state Board of Dentistry is amending LAC 46:XXXIII.1505 and 1509 to remove the limited permit to administer moderate sedation with parenteral drugs. In addition, the board is amending LAC 46:XXXIII.1511 to reorganize the Rule for clarification.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 15. Anesthesia/Analgesia Administration
§1505. Moderate Sedation with Parenteral Drugs

A. In order to receive a permit to administer moderate sedation with parenteral drugs the dentist shall:

1. meet all of the minimal educational requirements specified in LAC 46:XXXIII.1509; and

2. successfully complete a personally attended advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1505 of this Chapter; or

3. utilize the services of a third-party medical doctor or doctor of osteopathy, who specializes in anesthesiology, third-party certified registered nurse anesthetist, or an oral and maxillofacial surgeon who is permitted by the board to administer moderate sedation, deep sedation, and general anesthesia provided that the third-party anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

4. successfully complete a board-approved personally attended continuing education course as described in part III of the American Dental Association guidelines for teaching the comprehensive control of pain and anxiety in dentistry

provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a minimum to achieve competency as described in part III of the previously mentioned guidelines.

B. In addition to the requirements of Subsection A of this Section, the dentist must provide proof of current certification in cardiopulmonary resuscitation, course "advanced cardiac life support" (ACLS) as defined by the American Heart Association, or its equivalent. The board will only accept an ACLS course which includes a practical component which is personally attended.

C. In addition to the requirements of Subsections A and B, the dentist shall provide proof of current certification in pediatric advanced life support (PALS) when administering sedation to patients under the age of 13. The board will only accept a PALS course which includes a practical component which is personally attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 33:2653 (December 2007), LR 38:1958 (August 2012), LR 39:90 (January 2013), LR 40:

§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Moderate Sedation with Parenteral Drugs and General Anesthesia/Deep Sedation

A. - A.3. …

B. Moderate Sedation with Parenteral Drugs

1. To be granted a moderate sedation with parenteral drugs permit, the applicant's training must be personally attended. Online or correspondence courses are not acceptable; and the applicant must submit verification of successful completion of formal post-doctoral training in the use of parenteral drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), subcutaneous (SC), and moderate IV sedation routes of administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006), LR 37:590 (February 2011), LR 37:2151 (July 2011), LR 38:1958 (August 2012), LR 39:90 (January 2013), LR 40:

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. - A.7.d. …

e. pulse oximeter when parenteral or enteral moderate sedation on a patient is performed;

f. …

g. working electrocardiograph and defibrillator when general anesthesia or deep sedation is utilized.

8. - 8.i. …

j. oxygen; and

k. 50 percent dextrose or other antihypoglycemic.

B. - B.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006), LR 37:1407 (May 2011), 39:91 (January 2013), LR 39:2753 (October 2013), LR 40:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

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 these proposed rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Moderate Sedation, Minimal Education Requirements, Facilities, Personnel and Equipment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost to the Board of $500 in FY 14 for publication of the proposed rules in the State Register. There are no estimated costs or savings to local governmental units from the proposed rules.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1505 and .1509 to remove the "limited" permit to administer moderate sedation with parenteral drugs for dentists. This change is being made because there are no longer training courses available to dentists for the "limited" permit. The only training courses that are available to dentists are for the "full" permit. Therefore, a dentist receiving the required training to obtain a permit to administer sedation with parenteral drugs qualifies for the full permit offered by the board.

Additionally, the board is amending LAC 46:XXXIII.1511 for clarification. The requirement for a dentist to have a working electrocardiograph and defibrillator when general anesthesia or deep sedation is utilized was listed under drugs that must be in an emergency kit. Therefore, the rule is being amended to move that requirement under the facilities and equipment that must be available for sedation procedures, rather than including it in the list of emergency drugs required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits as a result of these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Peyton B. Burkhalter	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1403#078	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Pharmacy Records
(LAC 46:LIII.Chapter 11 and 1213, 1503 and 1509)

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 gives notice of its intent to amend several sections within Chapter 11, Pharmacies, as well as Section 1213 in Chapter 12, Automated Medication Systems, and Sections 1503 and 1509 in Chapter 15, Hospital Pharmacy, to update the rules relative to pharmacy records and recordkeeping requirements.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LII. Pharmacists

Chapter 11. Pharmacies
Subchapter B. Pharmacy Records

§1119. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Department—the Louisiana Department of Health and Hospitals or its successor.

Password—a private identification that is created by a user to obtain access to an electronic pharmacy information system.

Personal Identifier—a unique user name or number for identifying and tracking a specific user's access to a pharmacy information system such as social security number, user identification number, or employee number.

Positive Identification—a method of identifying an individual who prescribes, administers, or dispenses a prescription drug.

a. A method may not rely solely on the use of a private personal identifier such as a password, but must also include a secure means of identification such as the following:

i. a manual signature on a hard copy record;
ii. a magnetic card reader;
iii. a bar code reader;
iv. a thumbprint reader or other biometric method;
v. a proximity badge reader;
vi. a register in which each individual pharmacist dispensing a prescription shall sign a log each day, attesting to the fact that the information entered into the electronic record keeping system has been reviewed that day, and is correct as stated.
vii. a printout of every transaction that is verified and manually signed within a reasonable period of time by the individual who prescribed, administered, or dispensed the prescription drug. The printout must be maintained for two years and made available on request to an agent of the board.

b. A method relying on a magnetic card reader, a bar code reader, or a proximity badge reader must also include a private personal identifier, such as a password, for entry into a secure mechanical or electronic system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

§1121. General Requirements

A. Requirements

1. All records relating to the practice of pharmacy shall be uniformly maintained for a period of two years, be readily available, and promptly produced upon request for inspection by an agent of the board during regular business hours.

2. All records required by the laws and regulations of the board shall be provided to the board, or its agents, within 72 hours of request, unless a shorter period is required, as determined by the board or its agent.

3. The failure to produce any pharmacy records requested by the board or its agent within 72 hours of such request shall substantiate a violation of R.S. 37:1241(A)(22).

B. Accountability. The holder of the pharmacy permit and the pharmacist-in-charge shall account for all prescription drug transactions, consisting of:

1. acquisition records—invoice receipts of drugs acquired;

2. disposition records—drugs dispensed pursuant to prescription orders, administered pursuant to medical orders, or distributed pursuant to purchase orders, and

3. inventory records—drugs in current possession.

C. Retention. Except as provided in §1123, all records required by this Chapter and by Louisiana law shall be retained for a minimum of two years from the most recent transaction. The failure to retain such records for at least two years shall substantiate a violation of R.S. 37:1229.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 40:

§1123. Records

A. There shall be positive identification of the pharmacist, intern, technician, or technician candidate responsible for performing all activities related to the practice of pharmacy including, but not limited to:

1. prescription information entered into the pharmacy information system;

2. prospective drug utilization review;

3. prescription dispensing;

4. administration of immunizations.

B. A pharmacy may use one of the following types of pharmacy information systems:

1. a system that utilizes the original hard copy prescription to document the initial dispensing of a prescription, but utilizes a computerized system to dispense refills that does not document the positive identification of the pharmacist responsible for the practice of pharmacy. In

order to document positive identification, this system shall require the manual signature or initials of a pharmacist on a hard copy record as specified in Paragraph E of this Section;

2. an electronic recordkeeping system that complies with the provisions of 21 CFR 1311 and documents the positive identification of the pharmacist responsible for the practice of pharmacy. Such systems shall provide for routine backups at least once per day.

C. All pharmacy information systems shall be capable of providing immediate retrieval (via display and hard copy printout or other mutually agreeable transfer media) of patient profile information for all prescriptions dispensed within the previous two years. This information shall include the following minimum data:

1. the original prescription number;
2. date of issuance of the original prescription order by the prescriber;
3. date of dispensing by the pharmacist;
4. full name and address of the patient;
5. full name and address of the prescriber;
6. directions for use;
7. the name, strength, dosage form, and quantity of the drug prescribed;
8. the quantity dispensed if different from the quantity prescribed;
9. the pharmacist responsible for prescription information entered into the computer system, the pharmacist responsible for prospective drug utilization review as defined in §515 of these rules, and the pharmacist responsible for dispensing;
10. the total number of refills authorized by the prescriber; and
11. the refill history of the prescription as defined in Paragraph D of this Section.

D. The refill history of the prescription record maintained in the pharmacy information system shall include, but is not limited to:

1. the prescription number;
2. the name and strength of the drug dispensed;
3. the date of the refill or partial fill;
4. the quantity dispensed;
5. the pharmacist responsible for prospective drug utilization review as defined in §515 of these rules, and the pharmacist responsible for dispensing each refill;
6. the total number of refills or partial fills dispensed to date for that prescription order.

E. The hard copy documentation required pursuant to Paragraph (B)(1) of this Section shall be provided by each individual pharmacist who makes use of such system by signing a statement attesting to the fact that the prescription information entered into the computer is correct as displayed.

F. Backup Support System

1. The pharmacy information system shall be capable of being reconstructed in the event of an electronic or computer malfunction or unforeseen accident resulting in the destruction of the system or the information contained therein. To prevent the accidental loss of electronic records, an adequate backup system shall be maintained. Backup support systems shall be updated at least once daily.

2. In the event the pharmacy information system experiences down time, a record of all refills dispensed during such time shall be recorded and then entered into the pharmacy information system as soon as it is available for use. During the time the pharmacy information system is not available, prescriptions may only be refilled if, in the professional judgment of the pharmacist, the number of refills authorized by the prescriber has not been exceeded.

G. A pharmacy purging a pharmacy information system of prescription records shall develop a method of recordkeeping capable of providing retrieval (via display, hard copy printout, or other mutually agreeable transfer media) of prescription order information for all prescriptions filled or refilled within the previous two years. This information shall include, at a minimum, the following data:

1. pharmacy name and address;
2. original prescription number;
3. date of issuance of the original prescription order by the prescriber;
4. date of original dispensing by the pharmacist;
5. full name and address of the patient;
6. full name and address of the prescriber;
7. directions for use;
8. name, strength, dosage form, and quantity of the drug prescribed;
9. quantity dispensed if different from the quantity prescribed;
10. total number of refills authorized by the prescriber;
11. total number of refills dispensed to date for that prescription order;
12. date of each refill;
13. name or initials of each individual dispensing pharmacist.

H. A log shall be maintained of all changes made to a prescription record after the prescription has been dispensed. Such log may be accessible to the pharmacist for review, but shall be protected from being altered in any way. At a minimum, the log shall contain the following information:

1. date and time of change;
2. change(s) made;
3. pharmacist making the change.

I. Prescriptions entered into a pharmacy information system but not dispensed shall meet all of the following requirements:

1. the complete prescription information shall be entered in the computer system;
2. the information shall appear in the patient's profile; and
3. there is positive identification, in the pharmacy information system or on the hard copy prescription, of the pharmacist who is responsible for entering the prescription information into the system.

J. With respect to oral prescriptions received in the pharmacy and then transcribed to written form in the pharmacy, or written prescriptions received by facsimile in the pharmacy, or written prescriptions presented to the pharmacy, a pharmacy may use an electronic imaging system to preserve such prescriptions, but only if:

1. the system is capable of capturing, storing, and reproducing the exact image of a prescription, including the reverse side of the prescription form;

2. any notes of clarification of and alterations to a prescription shall identify the author and shall be directly associated with the electronic image of the prescription form;

3. the image of the prescription form and any associated notes of clarification to or alterations to a prescription are retained for a period of not less than two years from the date the prescription is last dispensed;

4. policies and procedures for the use of an electronic imaging system are developed, implemented, reviewed, and available for board inspection; and

5. the prescription is not for a controlled dangerous substance listed in Schedule II.

K. Filing and Retention of Prescription Forms

1. Written prescription forms (including transcriptions of verbal prescriptions received in the pharmacy, prescriptions received by facsimile in the pharmacy, as well as written prescription forms presented to the pharmacy) shall be assembled and stored in prescription number sequence. Prescriptions for controlled dangerous substances listed in Schedule II shall be filed separately from all other prescriptions. Where multiple medications are ordered on a single prescription form and includes one or more controlled dangerous substances listed in Schedule II, then such forms shall be filed with other Schedule II prescriptions. These original hard copy prescription forms shall be retained in the prescription department for a minimum of two years following the most recent transaction.

2. For those pharmacies utilizing an electronic imaging system as described in Paragraph J of this Section, written prescription forms may be assembled and stored in prescription number sequence, or in the alternative, a date scanned sequence. Further, these original hard copy prescriptions shall be retained in the prescription department for a minimum of one year following the most recent transaction.

3. Prescription forms received as an electronic image or electronic facsimile directly within the pharmacy information system shall be retained within the information system for a minimum of two years following the most recent transaction. Further, the pharmacy may produce a hard copy of the prescription form but shall not be required to do so merely for recordkeeping purposes.

4. Electronic prescriptions, those generated electronically by the prescriber, transmitted electronically to the pharmacy, and then received electronically directly into the pharmacy information system, shall be retained within the information system for a minimum of two years following the most recent transaction. The pharmacy may produce a hard copy of the prescription, but shall not be required to do so merely for recordkeeping purposes.

L. Patient Profiles. All pharmacies shall maintain a patient profile system which shall provide for immediate retrieval of information regarding those patients who have received prescriptions from that pharmacy.

1. The dispensing pharmacist shall be responsible for ensuring that a reasonable effort has been made to obtain, document, and maintain at least the following records:

a. the patient's data record, which should consist of, but is not limited to, the following information:

i. full name of the patient for whom the drug is intended;

ii. residential address and telephone number of the patient;

iii. patient's date of birth;

iv. patient's gender;

v. a list of current patient specific data consisting of at least the following:

(a). known drug related allergies,

(b). previous drug reactions,

(c). history of or active chronic conditions or disease states,

(d). other drugs and nutritional supplements, including nonprescription drugs used on a routine basis, or devices.

vi. the pharmacist's comments relevant to the individual patient's drug therapy, including any other necessary information unique to the specific patient or drug;

b. the patient's drug therapy record, which shall contain at least the following information for all the prescriptions that were filled at the pharmacy:

i. name and strength of the drug or device;

ii. prescription number;

iii. quantity dispensed;

iv. date dispensed;

v. name of the prescriber;

vi. directions for use;

c. any information that is given to the pharmacist by the patient or caregiver to complete the patient data record shall be presumed to be accurate, unless there is reasonable cause to believe the information is inaccurate.

M. Exceptions. The provisions of this Section shall not apply to the following.

1. Pharmacies permitted as hospital pharmacies by the board shall comply with the provisions of Chapter 15 of these rules.

2. Other pharmacies providing medications and services to patients within facilities other than hospitals licensed by the department shall comply with the provisions of §1124 of these rules for those activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 36:755 (April 2010), amended LR 40:

§1124. Records of Pharmacy Services for Patients in Licensed Healthcare Facilities Other than Hospitals

A. Definitions

Dispensing of a Drug Pursuant to an Inpatient Prescription—the professional review by a pharmacist required to place a specific drug in final association with the name of a particular inpatient pursuant to the lawful order of a prescriber. In the case of an automated medication system meeting the requirements of Chapter 12 of these rules, the final association with the name of a particular inpatient will be deemed to have occurred when the pharmacist has given the final approval to the patient specific order in the system.

Electronic Drug Record Keeping System—a system of storing drug records electronically and capturing the positive identification of the person responsible for a specific drug transaction including, but not limited to, the prescribing, administering, or dispensing of a drug.

Inpatient—a person receiving health care services within a healthcare facility other than a hospital licensed by the department.

Inpatient Prescription—a written, electronic or oral order for a drug for use in treating a patient within a healthcare facility other than a hospital licensed by the department.

Password—a private identification that is created by a user to obtain access to an electronic drug record keeping system.

Personal Identifier—a unique user name or number for identifying and tracking a specific user's access to an electronic drug record keeping system such as social security number, user identification number, or employee number

Positive Identification—

a. has the same meaning as defined in Section 1119 of these rules, except that a specific facility having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

i. adequate audit controls are in place to detect and deter drug diversion;

ii. adequate access controls are in place to assure the identity of the user and to assign accountability of the user for any drug transaction;

iii. adequate safeguards are in place to prevent and detect the unauthorized use of an individual's password and personal identifier;

iv. an ongoing quality assurance program is in place to ensure that Clauses i through iii of this term are being fulfilled and reviewed; and

v. appropriate policies and procedures are in place to address Clauses i through iv of this term.

b. All of the above notwithstanding, however, positive identification as defined in §1119 of these rules shall always be used to document the:

i. dispensing, compounding, or prepackaging of a drug;

ii. removal and possession of a controlled substance to administer to a patient; and

iii. waste of a controlled substance.

B. Drug Distribution and Control. The pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, distribution, control, accountability, and patient administration and management of drugs.

1. Procedure Manual. The pharmacist-in-charge shall maintain defined procedures for the safe and efficient distribution of medications and pharmacy care. A current copy of the manual shall be available for board inspection upon request.

2. Inventories. The pharmacist-in-charge shall be responsible for the performance of an annual inventory of all controlled dangerous substances within his span of control, in compliance with the provisions of Section 2733 of these rules.

3. Records. The pharmacist-in-charge shall be responsible for maintaining the following records:

a. a record of all drugs procured, the quantity received, and the name, address and wholesale distributor license number of the person from whom the drugs were procured.

b. all drug orders and records relating to the practice of pharmacy.

i. Records of drugs dispensed shall include, but are not limited to:

(a). the name, strength, and quantity of drugs dispensed;

(b). the date of dispensing;

(c). the name of the inpatient to whom, or for whose use, the drug was dispensed; and

(d). positive identification of all pharmacists involved in the dispensing.

ii. All other records relating to the practice of pharmacy other than dispensing shall include, but are not limited to:

(a). the name of the inpatient to whom, or for whose benefit, the activity was performed;

(b). the nature of the pharmacy practice activity performed;

(c). the results of the activity, if applicable; and

(d). positive identification of all pharmacists involved in the activity; identifying the function performed by each pharmacist.

iii. Records of drugs dispensed to patients for use outside the facility shall be maintained in compliance with Section 1123 of these rules.

c. A record of all drugs compounded or prepackaged for use only within that facility, which shall include at least the following:

i. name of drug, strength, quantity, and dosage form;

ii. manufacturer's or distributor's control number (except for patient-specific sterile compounded preparations);

iii. manufacturer's or distributor's name, if a generic drug is used;

iv. pharmacy control number;

v. manufacturer's or distributor's expiration date (except for patient-specific sterile compounded preparations);

vi. pharmacy's expiration date or beyond-use date;

vii. positive identification of the licensed person responsible for the compounding or prepackaging of the drug.

d. A record of the distribution of drugs to patient care areas and other areas of the facility held for administration, which shall include at least the following:

i. the name, strength, dosage form, and amount of the drug distributed;

ii. the area receiving the drug;

iii. the date distributed;

iv. positive identification of the individual receiving the drug if it is a controlled dangerous substance;

v. the area of the facility receiving the controlled dangerous substance shall make a record of all such drugs administered to patients. Such records shall include at least the following:

(a). name of the patient;

(b). name, dosage form, and strength when applicable of the drug;

(c). date and time the drug was administered;

(d). quantity administered;

(e). positive identification of the personnel administering the drug.

e. A log that shall be maintained of all changes made to a drug record in an electronic drug recordkeeping system after a drug transaction has been made. The log shall contain at least, but is not limited, to the following:

i. date and time of change;

ii. changes made;

iii. person making the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

§1125. Security and Confidentiality

A. The holder of the pharmacy permit shall provide adequate safeguards against improper, illegal, or unauthorized manipulation or alteration of any records in the pharmacy information system.

B. A pharmacist shall provide adequate security to prevent indiscriminate or unauthorized access to confidential information. If confidential health information is not transmitted directly between a pharmacist and a practitioner, but is transmitted through a data communications device, the confidential health information may not be accessed, maintained, or altered by the operator of the data communications device. Confidential information is privileged and may be released only subject to federal privacy laws and regulations, and subject to applicable Louisiana statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23.1312, (October 1997), amended LR 29:2091 (October 2003), effective January 1, 2004, amended LR 40:

§1127. Register

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2091 (October 2003), effective January 1, 2004, repealed LR 40:

§1129. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2091 (October 2003), effective January 1, 2004, repealed LR 40:

Chapter 12. Automated Medication Systems

§1213. Records

A. Records and/or electronic data kept by the system shall meet the following requirements:

1. …

2. In the event controlled substances are stored in the system, the records shall include the positive identification (as defined in §1119 of the board's rules) of the personnel retrieving and administering the controlled substance to the patient.

3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended LR 40:

Chapter 15. Hospital Pharmacy

§1503. Definitions

Dispensing of a Drug Pursuant to a Hospital Prescription—the professional review by a pharmacist required to place a specific drug in final association with the name of a particular hospital patient pursuant to the lawful order of a prescriber. In the case of an automated medication system meeting the requirements of Chapter 12 of these rules, the final association with the name of a particular hospital patient will be deemed to have occurred when the pharmacist has given the final approval to the patient specific order in the system.

Electronic Drug Record Keeping System—a system of storing drug records electronically and capturing the positive identification of the person responsible for a specific drug transaction including, but not limited to, the prescribing, administering, or dispensing of a drug.

Hospital Patient—a person receiving health care services within a hospital facility.

* * *

Hospital Prescription—a written, electronic or oral order for a drug for use in treating a hospital patient.

Password—a private identification that is created by a user to obtain access to an electronic drug record keeping system.

Personal Identifier—a unique user name or number for identifying and tracking a specific user's access to an electronic drug record keeping system such as social security number, user identification number, or employee number

Positive Identification—

1. has the same meaning as defined in Section 1119 of these rules, except that a specific hospital having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

a. adequate audit controls are in place to detect and deter drug diversion;

b. adequate access controls are in place to assure the identity of the user and to assign accountability of the user for any drug transaction;

c. adequate safeguards are in place to prevent and detect the unauthorized use of an individual's password and personal identifier;

d. an ongoing quality assurance program is in place to ensure that all three provisions cited above in this definition are being fulfilled and reviewed; and

e. appropriate policies and procedures are in place to address all four provisions cited above in this definition.

2. All of the above notwithstanding, however, positive identification as defined in §1119 of these rules shall always be used to document the:

a. dispensing, compounding, or prepackaging of a drug;

b. removal and possession of a controlled substance to administer to a patient; and

c. waste of a controlled substance.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 40:

§1509. Drug Distribution and Control

A. The hospital pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, distribution, control, accountability, and patient administration and management of drugs. The staff of the hospital pharmacy shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering, administering, and accounting for pharmaceuticals.

1. - 2.b. …

3. Records. The pharmacist-in-charge shall be responsible for maintaining the following records:

a. a record of all drugs procured, the quantity received, and the name, address and wholesale distributor license number of the person from whom the drugs were procured.

b. all drug orders and records relating to the practice of pharmacy.

i. Records of drugs dispensed shall include, but are not limited to:

(a). the name, strength, and quantity of drugs dispensed;

(b). the date of dispensing;

(c). the name of the hospital patient to whom, or for whose use, the drug was dispensed; and

(d). positive identification of all pharmacists involved in the dispensing.

ii. All other records relating to the practice of pharmacy other than dispensing shall include, but are not limited to:

(a). the name of the hospital patient to whom, or for whose benefit, the activity was performed;

(b). the nature of the pharmacy practice activity performed;

(c). the results of the activity, if applicable; and

(d). positive identification of all pharmacists involved in the activity; identifying the function performed by each pharmacist.

iii. Records of drugs dispensed to patients for use outside the hospital shall be maintained in compliance with Section 1123 of these rules.

c. A record of all drugs compounded or prepackaged for use only within that hospital, which shall include at least the following:

i. name of drug, strength, quantity, and dosage form;

ii. manufacturer's or distributor's control number (except for patient-specific sterile compounded preparations);

iii. manufacturer's or distributor's name, if a generic drug is used;

iv. pharmacy control number;

v. manufacturer's or distributor's expiration date (except for patient-specific sterile compounded preparations);

vi. pharmacy's expiration date or beyond-use date;

vii. positive identification of the licensed person responsible for the compounding or prepackaging of the drug.

d. a record of the distribution of drugs to patient care areas and other areas of the hospital held for administration, which shall include at least the following:

i. the name, strength, dosage form, and amount of the drug distributed;

ii. the area receiving the drug;

iii. the date distributed;

iv. positive identification of the individual receiving the drug if it is a controlled dangerous substance;

v. the area of the hospital receiving the controlled dangerous substance shall make a record of all such drugs administered to patients. Such records shall include at least the following:

(a). name of the patient;

(b). name, dosage form, and strength when applicable of the drug;

(c). date and time the drug was administered;

(d). quantity administered;

(e). positive identification of the personnel administering the drug.

e. A log that shall be maintained of all changes made to a drug record in an electronic drug recordkeeping system after a drug transaction has been made. The log shall contain at least, but is not limited, to the following:

i. date and time of change;

ii. changes made;

iii. person making the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003), effective January 1, 2004, amended LR 40:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. We anticipate 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. We anticipate 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. We anticipate no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. We anticipate no effect on family earnings and the family budget.

4. The Effect on the Behavior and Personal Responsibility of Children. We anticipate no effect on the behavior and personal responsibility of children.

5. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. We anticipate no impact on household income, assets, and financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. We anticipate no positive impact on employment and workforce development.

4. The Effect on Taxes and Tax Credits. We anticipate no impact on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Statement

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule allows small pharmacies to continue their method of compliance or reporting requirements.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no changes in the deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no changes in the reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed Rule permits small pharmacies to maintain their current recordkeeping systems.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions from any of the requirements, but there are allowances for alternative methods of compliance.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, April 29, 2014 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is noon that same day.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board has allocated $1,000 for printing costs of the proposed rule in the current fiscal year and the same amount for printing of the final rule in FY 2014-2015. The proposed rule will result in no costs or savings to local governmental units. The proposed rule changes requirements relative to pharmacy records, establishes standards for the receipt and processing of electronic prescriptions, and clarifies and updates requirements regarding confidentiality, pharmacy records, and records retention.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on state or local government revenue collections from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will affect all pharmacies with respect to their dispensing information systems. Some pharmacies already comply with the new standards and some do not. There could be an indeterminable cost for some pharmacies to upgrade their information system technology. Alternatively, pharmacies may elect to maintain their current record keeping system as long as the system complies with certain provisions as detailed in §1123, Paragraph B.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not have any effect on competition or employment.

Malcolm J. Broussard	Evan Brasseaux
Executive Director	Staff Director
1403#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Prescription Monitoring Program Delegates
(LAC 46:LIII.Chapter 29)

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.), and pursuant to the provisions of Act 110 of the 2013 Legislature, the Louisiana Board of Pharmacy hereby gives notice of its intent to

amend several sections within Chapter 29, Prescription Monitoring Program, of its rules, to allow prescribers and dispensers to appoint delegates for the purpose of accessing and retrieving information from the prescription monitoring program database.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 29. Prescription Monitoring Program

Subchapter A. General Operations

§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise:

* * *

Delegate—a person authorized by a prescriber or dispenser who is also an authorized user (as described in §2917 of this Chapter) to access and retrieve program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, amended LR 39:314 (February 2013), amended LR 40:

Subchapter C. Access to Prescription Monitoring Information

§2917. Authorized Direct Access Users of Prescription Monitoring Information

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. persons authorized to prescribe or dispense controlled substances or drugs of concern, and their delegates, for the purpose of providing medical or pharmaceutical care for their patients, or for verifying their prescription records;

2. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:

§2919. Registration Procedures for Authorized Direct Access Users

A. Authorized users of prescription monitoring information, and their delegates, shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1. - 5. …

6. Prescribers and dispensers approved for access shall be responsible for the enabling and/or disabling of access privileges for their delegates, as well as the supervision of their activities.

AUTHORITY NOTE: Promulgated by R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 40:

§2921. Methods of Access to Prescription Monitoring Information

A. Prescribers and dispensers as well as their delegates, once properly registered, may solicit prescription monitoring information from the program concerning their patients, or for verifying their prescription records. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

B - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), LR 40:

§2923. Unlawful Use or Disclosure of Prescription Monitoring Information

A. If the program receives evidence of inappropriate or unlawful use or disclosure of prescription monitoring information by an authorized user or his delegate, the program shall refer that user to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007), amended LR 40:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. We anticipate 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. We anticipate 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. We anticipate no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. We anticipate no effect on family earnings and the family budget.

4. The Effect on the Behavior and Personal Responsibility of Children. We anticipate no effect on the behavior and personal responsibility of children.

5. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. We anticipate no impact on household income, assets, and financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. We anticipate no positive impact on employment and workforce development.

4. The Effect on Taxes and Tax Credits. We anticipate no impact on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Statement

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule change would not change any reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no changes in the deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no changes in the reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. Since the proposed Rule allows flexibility for the prescriber and dispenser to appoint and dismiss their own delegates, there are no exemptions for small businesses in the proposed Rule.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, April 29, 2014 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is noon that same day.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Prescription Monitoring Program Delegates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board has allocated $500 for printing costs of the proposed rule in FY 2013-2014, and the same amount for printing of the final rule in FY 2014-2015. The proposed rule will result in no costs or savings to local governmental units. The proposed rule codifies the allowance of delegates to access prescription monitoring information in certain circumstances as per Act 110 of the 2013 Regular Session of the Louisiana Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Prescribers and dispensers with authorized access to the prescription monitoring program database will be allowed to appoint delegates for the purpose of accessing and retrieving that information. The use of delegates could free up time for prescribers and dispensers for other tasks, including direct patient care, and further, could reduce the labor costs associated with such data retrieval tasks.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not have any effect on competition or employment.

Malcolm Broussard	Evan Brasseaux
Executive Director	Staff Director
1403#039	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Veterinarian Exclusion from Prescription Monitoring Program (LAC 46:LIII.Chapter 29)

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.), and pursuant to the provisions of Act 27 of the 2013 Legislature, the Louisiana Board of Pharmacy hereby gives notice of its intent to amend two sections within Chapter 29, Prescription Monitoring Program, of its rules, to exclude veterinarians from any participation in the program and to exempt them from any reporting or other requirements from the program.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 29. Prescription Monitoring Program
Subchapter A. General Operations
§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise:

* * *

Dispenser—a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:

a. - d. …

e. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, amended LR 39:314 (February 2013), amended LR 40:

§2909. Advisory Council

A. The advisory council shall consist of the following members, each of whom may appoint a designee:

1. - 4. …

5. Repealed;

6. - 25. …

26. Repealed.

B. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 40:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The Effect on the Stability of the Family. We anticipate 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. We anticipate 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. We anticipate no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. We anticipate no effect on family earnings and the family budget.

4. The Effect on the Behavior and Personal Responsibility of Children. We anticipate no effect on the behavior and personal responsibility of children.

5. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. We anticipate no impact on household income, assets, and financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. We anticipate no positive impact on employment and workforce development.

4. The Effect on Taxes and Tax Credits. We anticipate no impact on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Statement

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule change would not change any reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. There are no changes in the deadlines for compliance or reporting requirements for small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no changes in the reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There are no design or operational standards in the proposed Rule.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. Since the proposed Rule allows flexibility for the prescriber and dispenser to appoint and dismiss their own delegates, there are no exemptions for small businesses in the proposed Rule.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, April 29, 2014 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to

submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is noon that same day.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Veterinarian Exclusion from Prescription Monitoring Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board has allocated $500 for printing costs of the proposed rule in FY 2013-2014 and the same amount for printing of the final rule in FY 2014-2015. The proposed rule will result in no costs or savings to local governmental units. The proposed rule codifies the exclusion of veterinarians from the Prescription Monitoring Program as per Act 27 of the 2013 Regular Session of the Louisiana Legislature. The proposed rule further removes the president of the Louisiana State Board of Veterinary Medicine and the president of the Louisiana Veterinary Medical Association from the Advisory Council.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Since veterinarians will be excluded from the Prescription Monitoring Program, those individuals will no longer be required to comply with reporting or other compliance requirement. The lack of reporting requirements may result in an indeterminable economic benefit to approximately 990 veterinarians currently holding Controlled Dangerous Substance licenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition or employment.

Malcolm J. Broussard Executive Director 1403#038	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Adult Residential Care Providers
Licensing Standards (LAC 48:I.Chapters 68 and 88)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 68 governing the licensing standards for adult residential care providers, and to repeal LAC 48:I.Chapter 88 governing the licensing standards for adult residential care homes, in its entirety, as authorized by R.S. 36:254 and R.S. 40:2166.1-2166.8 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, Health Standards Section was transferred authority for the licensing standards governing adult residential care providers from the Department of Children and Family Services (formerly the Department of Social Services), inclusive of the provisions of LAC 48:I.Chapter 88.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing adult residential care providers in order to clarify the provisions governing dementia training (*Louisiana Register*, Volume 36, Number 5).

The department now proposes to repeal and replace the provisions governing the licensing standards for adult residential care providers and adult residential care homes in order to incorporate these provisions under a single comprehensive Rule in the *Louisiana Administrative Code*. Therefore, the provisions of LAC 48:I.Chapter 88 shall be repealed in their entirety and all of the provisions governing the licensing standards for adult residential care providers will be repromulgated under LAC 48:I.Chapter 68.

Title 48
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Licensing
Chapter 68. Adult Residential Care Providers
Subchapter A. General Provisions
§6801. Introduction

A. These rules and regulations contain the minimum licensure standards for adult residential care providers (ARCPs), pursuant to R.S. 40:2166.1-2166.8.

B. An adult residential care provider (ARCP) serves individuals in a congregate setting and is operational 24 hours per day, seven days per week, with a coordinated array of supportive personal services, 24-hour supervision and assistance (scheduled and unscheduled), activities and health-related services that are designed to:

1. allow the individual to reside in the least restrictive setting of his/her choice;
2. accommodate the individual resident's changing needs and preferences;
3. maximize the resident's dignity, autonomy, privacy and independence; and
4. encourage family and community involvement.

C. An ARCP shall have at least one published business telephone number.

D. Adult residential care may include, but is not limited to lodging and meals, in combination with any of the following services:

1. assistance with activities of daily living;
2. medication assistance or the provision of medication administration by a licensed nurse or medical doctor; and/or
3. intermittent nursing services exclusive to Level 4 ARCPs.

E. The Department of Health and Hospitals (DHH) does not require and will not issue ARCP licenses for the provision of lodging and meals only or homeless shelters.

1. For the purposes of this Rule, homeless shelters shall be defined as entities that provide only temporary or emergency shelter to individuals who would otherwise be

homeless and may provide services to alleviate homelessness.

F. There are four levels of adult residential care. The levels differ in the services they are licensed to offer and the physical environment requirements.

G. All levels of ARCPs shall comply with all regulations in this Chapter unless the language of the regulations pertains to a specific level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1 - 2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6803. Definitions and Abbreviations

Abuse—the infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to:

1. sexual abuse;
2. exploitation; or
3. extortion of funds or other things of value to such an extent that the resident's health, moral, or emotional well-being is endangered.

Activities of Daily Living—ambulating, transferring, grooming, bathing, dressing, eating, toileting, and for the purposes of this Rule, taking medication.

Adult—a person who has attained 18 years of age.

Adult Residential Care Provider—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator.

Alterations, Additions, or Substantial Rehabilitation—rehabilitation that involves structural changes in which hard costs are equal to or exceed the per unit cost for substantial rehabilitation as defined by the Louisiana Housing Finance Authority.

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest in an ARCP. Examples of actions that constitute a change of ownership include:

1. Unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership.

2. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership.

3. Limited Liability Company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership.

4. Partnership. In the case of a partnership, the removal, addition, or substitution of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

Chemical Restraint—a psychopharmacologic drug that is used for discipline or convenience and not required to directly treat medical symptoms or medical diagnoses. The use of chemical restraints is prohibited in ARCPs.

Common Area (Space)—the interior space(s) made available for the free and informal use by all residents or the guests of the ARCP. Common areas may include activity rooms, libraries, and other areas exclusive of resident's rooms and bathrooms. Corridors, passageways, kitchens and laundry areas are not included as common areas.

Controlled Dangerous Substance (CDS)—a drug, substance, or immediate precursor in Schedule I through V of R.S. 40:964.

DAL—Division of Administrative Law or its successor.

Department—the Louisiana Department of Health and Hospitals (DHH).

Direct Care Staff—any employee of the ARCP that provides personal care services to the residents.

Director—the person who is in charge of the daily operation of the ARCP.

Facility Need Review(FNR)—a review conducted for Level 4 ARCPs to determine whether there is a need for additional ARCP residential living units to be licensed.

Health Care Services—any service provided to a resident by an ARCP or third-party provider that is required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional shall not be considered a health care service.

Incident—any occurrence, situation or circumstance affecting the health, safety or well-being of a resident or residents.

Intermittent Nursing Services—services that are provided episodically or for a limited period of time by licensed nursing staff.

Instrumental Activities of Daily Living—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These include activities such as:

1. light house-keeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;
5. scheduling medical appointments;
6. financial management;
7. arranging transportation to medical appointments; and
8. accompanying the client to medical appointments.

Licensed Practical Nurse (LPN)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

Level 1 ARCP—an ARCP that provides adult residential care for compensation to two or more residents but no more than eight who are unrelated to the licensee or operator in a setting that is designed similarly to a single-family dwelling.

Level 2 ARCP—an ARCP that provides adult residential care for compensation to nine or more residents but no more than 16 who are unrelated to the licensee or operator in a congregate setting that does not provide independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 3 ARCP—an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent

apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 4 ARCP—an ARCP that provides adult residential care including intermittent nursing services for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

May—indicates permissible practices or services.

Neglect—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

NFPA—National Fire Protection Association.

Nursing Director—a registered nurse licensed by the state of Louisiana who directs or coordinates nursing services in the ARCP.

OSFM—Office of the State Fire Marshal.

OPH—Office of Public Health.

Person-Centered Service Plan (PCSP)—a written description of the functional capabilities of a resident, the resident's need for personal assistance and the services to be provided to meet the resident's needs.

Personal Assistance—services that directly assist a resident with certain activities of daily living and instrumental activities of daily living.

Physical Restraint—any manual method, physical or mechanical device, material, or equipment attached to or adjacent to a resident's body that the individual cannot easily remove which restricts freedom of movement or normal access to the body and is not used as an assistive device. The use of physical restraints is prohibited in ARCPs.

PRN—commonly used in medicine to mean as needed or as the situation arises.

Resident's Representative—a person who has been authorized by the resident in writing to act upon the resident's direction regarding matters concerning the resident's health or welfare, including having access to personal records contained in the resident's file and receiving information and notices about the overall care, condition and services for the resident. No member of the governing body, administration or staff or an ARCP or any member of their family shall serve as the resident's representative unless they are related to the resident by blood or marriage.

Resident Apartment—a separate unit configured to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including:

1. sleeping;
2. sitting;
3. dressing;
4. personal hygiene;
5. storing, preparing, serving and eating food;
6. storing clothing and other personal possessions;
7. handling personal correspondence and paperwork; and
8. entertaining visitors.

Registered Nurse (RN)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Shall—indicates mandatory requirements.

Specialized Dementia Care Program—as defined in R.S. 40:1300.123, a special program or unit for residents with a diagnosis of probable alzheimer's disease or other form of dementia so as to address the safety needs of such residents, and that advertises, markets, or otherwise promotes the ARCP as providing specialized Alzheimer's/dementia care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6805. Licensure Requirements

A. All ARCPs shall be licensed by the Department of Health and Hospitals. The department is the only licensing authority for ARCPs in the state of Louisiana. It shall be unlawful to operate an ARCP without possessing a current, valid license issued by the department. The license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ARCP to which it is issued and only for the specific geographic address of that ARCP;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ARCP;
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.

B. In order for the ARCP to be considered operational and retain licensed status, the ARCP shall meet the following conditions.

1. The ARCP shall always have at least one employee on duty at the business location 24 hours per day, seven days per week.
2. There shall be staff employed, sufficient in number with appropriate training, available to be assigned to provide care and services according to each resident's PCSP.
3. The ARCP shall have provided services that included lodging, meals and activities of daily living to at least two residents unrelated to the licensee or operator within the preceding 12 months prior to their licensure renewal date.

C. The ARCP shall abide by and adhere to any state laws, rules, policies, procedures, manuals, or memorandums issued by the department pertaining to ARCPs.

D. A separately licensed ARCP shall not use a name which is substantially the same as the name of another ARCP licensed by the department.

E. The ARCP shall maintain insurance policies in force at all times with at least the minimum required coverage for general and professional liability and worker's compensation insurance at the levels specified in §6807. Failure to maintain compliance may constitute the basis for license revocation and/or sanction.

F. The ARCP shall market itself only as the level licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6807. Initial Licensure Application Process

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license

application packet for an ARCP shall be submitted to and approved by the department prior to an applicant providing ARCP services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed ARCP license application and the appropriate non-refundable licensing fee as established by statute;

2. a copy of the on-site inspection report with approval for occupancy by the OSFM;

3. a copy of the health inspection report from the OPH;

4. a copy of criminal background checks on all owners;

5. proof of financial viability which entails:

a. verification of sufficient assets equal to $100,000 or the cost of three months of operation, whichever is less; or

b. a letter of credit issued from a federally insured, licensed lending institution in the amount of at least $100,000 or the cost of three months of operation, whichever is less;

6. proof of general and professional liability insurance of at least $300,000;

7. proof of worker's compensation insurance;

8. if applicable, a Clinical Laboratory Improvement Amendments (CLIA) certificate or a CLIA certificate of waiver;

9. a completed disclosure of ownership and control information form;

10. a floor sketch or drawing of the premises to be licensed;

11. the days and hours of operation;

12. a facility need review approval for a level 4 ARCP;

13. a copy of the letter approving architectural plans from the OSFM;

14. the organizational chart of the ARCP; and

15. any documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and shall have 90 days to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, the ARCP applicant shall notify the department of readiness for an initial licensing survey within 90 days. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days of approval, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process subject to any facility need review requirements.

D. Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations and fees before the ARCP will be issued an initial license to operate by department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6809. Initial Licensing Surveys

A. Prior to the initial license being issued to the ARCP, an initial licensing survey shall be conducted on-site at the ARCP to assure compliance with ARCP licensing standards. No resident shall be provided services by the ARCP until the initial licensing survey has been performed, the ARCP has been found in compliance and the initial license has been issued to the ARCP by department.

B. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations, any required statutes, laws, ordinances, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the residents, the department may issue a provisional initial license for a period not to exceed six months.

1. The provider shall submit an acceptable plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

2. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license may be issued.

3. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies are cited on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required facility need review approval.

E. When issued, the initial ARCP license shall specify the maximum number of apartments and/or resident capacity for which the ARCP is licensed.

F. The initial licensing survey of an ARCP provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced.

G. Once an ARCP has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

1. A plan of correction may be required from an ARCP for any survey where deficiencies have been cited. Such plan of correction shall be approved by the department.

2. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

H. The department may issue appropriate sanctions, including, but not limited to:

1. civil fine;
2. directed plans of correction;
3. denial of license renewal;
4. license revocation; and/or
5. any sanctions allowed under state law or regulation.

I. The department's surveyors and staff shall be given access to all areas of the ARCP and all relevant files during any licensing or other survey or investigation and shall be allowed to interview any provider staff or residents as necessary to conduct the on-site investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6811. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses:

1. Full License. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, the department is authorized to issue a provisional initial license pursuant to the requirements and provisions of these regulations.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed ARCP provider who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. Provisional License

a. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP provider for a period not to exceed six months, for any of the following reasons, including but not limited to:

i. the existing ARCP provider has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing ARCP provider has more than three validated complaints in one licensed year period;

iii. the existing ARCP provider has been issued a deficiency that involved placing a participant at risk for serious harm or death;

iv. the existing ARCP provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

v. the existing ARCP provider is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

b. When the department issues a provisional license to an existing licensed ARCP provider, the department shall conduct a follow-up survey of the ARCP provider prior to the expiration of the provisional license.

i. If that follow-up survey determines that the ARCP provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, then the department may issue a full license for the remainder of the year until the anniversary date of the ARCP license.

ii. If that follow-up survey determines that the ARCP has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required facility need approval.

B. If an existing licensed ARCP provider has been issued a notice of license revocation, suspension, or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the Division of Administrative Law (DAL) or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the ARCP pose an imminent or immediate threat to the health, welfare, or safety of a participant, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ARCP will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

C. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6813. Changes in Licensee Information or Personnel

A. Any change regarding the ARCP's entity name, doing business as name, geographical address, mailing address, telephone number, or any combination thereof, shall be reported in writing to the department five business days prior to the change.

B. Any change regarding the ARCP's key administrative personnel shall be reported in writing to the department within 10 business days of the change.

1. Key administrative personnel include the:
   a. director;
   b. assistant director; and
   c. nursing director.

2. The ARCP's notice to the department shall include the individual's:
   a. name;

b. address;
c. telephone;
d. facsimile (fax) number;
e. e-mail address;
f. hire date; and
g. qualifications.

C. A change of ownership (CHOW) of the ARCP shall be reported in writing to the department within five business days of the CHOW. The license of an ARCP is not transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Level 4 ARCPs shall also submit a facility need review application for approval. Once all application requirements have been completed and approved by the department, a new license shall be issued to the new owner.

D. If the ARCP changes its name without a CHOW, the ARCP shall report such change to the department in writing within five business days prior to the change. The notification of the name change shall include an updated license application and the required fee for such change.

E. Any request for a duplicate license shall be accompanied by the appropriate designated fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6815. Renewal of License

A. License Renewal Application. The ARCP provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current fire marshal inspection report;
4. a current OPH inspection report;
5. the non-refundable license renewal fee;
6. proof of financial viability to include verification and maintenance of a letter of credit issued from a federally insured, licensed lending institution in the amount of at least $100,000 or the cost of three months of operation, whichever is less;
7. general and professional liability insurance of at least $300,000;
8. proof of worker's compensation insurance; and
9. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license will be considered a voluntary non-renewal of the license and the license shall expire on its face.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6817. Denial of License, Revocation of License, Denial of License Renewal, Operation without License, Penalty

A. The department may deny an application for a license, deny a license renewal or revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the residents.
2. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents.
3. The department shall deny an initial license for any of the reasons stated in §6817.D for which a license may be revoked or a license renewal may be denied.

C. Voluntary Non-Renewal of a License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily non-renewed or voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary cessation of business.

D. Revocation of License or Denial of License Renewal. An ARCP license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ARCP licensing laws, rules and regulations;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, or regulations;
3. failure to comply with the terms and provisions of a settlement agreement or education letter;
4. failure to uphold resident rights whereby deficient practices may result in harm, injury, or death of a resident;
5. failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:
   a. abuse, neglect, exploitation, or extortion;
   b. any action posing a threat to a resident's health and safety;
   c. coercion;
   d. threat or intimidation; or
   e. harassment;
6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
7. knowingly making a false statement in any of the following areas, including but not limited to:
   a. application for initial license or renewal of license;
   b. data forms;
   c. clinical records, resident records, or provider records;
   d. matters under investigation by the department, Office of the Attorney General, or any law enforcement agency; or

e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ARCP by the owner, director, officer, member, manager, or other key personnel as defined by §6813;

11. an owner, officer, member, manager, director or person designated to manage or supervise resident care who has been convicted of, or has entered a plea of guilty or nolo contendere (no contest) to, or has 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 court:

a. For purposes of this Paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person;

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or residents;

14. failure to allow or refusal to allow access to authorized departmental personnel to records;

15. bribery, harassment, or intimidation of any resident designed to cause that resident to use the services of any particular ARCP provider; or

16. cessation of business or non-operational status.

E. In the event an ARCP license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, manager, or director of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

F. Operation without License and Penalty

1. An adult residential care provider shall not operate without a license issued by the department. Any such provider operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than $100 for each day of operation without a license up to a maximum of $1,000 or imprisonment of not more than six months, or both. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

2. If an adult residential care provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

3. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under Paragraph B of this Section and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6819. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The ARCP provider has a right to an informal reconsideration of the license denial, license revocation, or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP provider shall request the informal reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for informal reconsideration shall be in writing and received by the department within 15 calendar days of the provider's receipt of the notice letter from the department.

2. The request for 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 by the Health Standards Section (HSS), an informal reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the license denial, license revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the informal reconsideration.

C. The ARCP provider has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP provider shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration. The ARCP may forego its rights to an informal reconsideration, and if so, the ARCP shall request an administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL) or its successor.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the DAL or its successor issues a final administrative decision.

4. If the secretary of the department determines that the violations of the ARCP pose an imminent or immediate threat to the health, welfare, or safety of a resident, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ARCP will be notified in writing.

5. Correction of a violation or a deficiency which is the basis for the license denial, license revocation, or denial of license renewal, shall not be a basis for the administrative appeal.

D. If an existing licensed ARCP provider has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. The denial of the license renewal application does not affect in any manner the license revocation.

2. If the final decision by DAL or its successor is to reverse the license denial, the denial of license renewal, or the license revocation, the provider's license will be re-instated or granted upon the payment of any licensing or other fees due to the department.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ARCP provider. An existing provider who has been issued a provisional license remains licensed and operational and also has no right to an informal reconsideration or an administrative appeal. The issuance of a provisional license to an existing ARCP provider is not considered to be a denial of license, a denial of license renewal, or a license revocation.

1. A follow-up survey may be conducted prior to the expiration of a provisional initial license to a new ARCP provider or the expiration of a provisional license to an existing provider.

2. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

3. If all noncompliance or deficiencies have not been corrected at the time of the follow-up survey, or if new deficiencies that are a threat to the health, safety, or welfare of residents are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

4. The department shall issue written notice to the provider of the results of the follow-up survey.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal of the deficiencies cited at the follow-up survey.

a. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

b. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

c. The provider must request the informal reconsideration of the deficiencies in writing, which shall be received by the HSS within five calendar days of receipt of the notice of the results of the follow-up survey from the department. 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.

d. The provider must request the administrative appeal within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the DAL or its successor. 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.

e. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section must cease providing services unless the DAL or its successor issues a stay of the expiration. The stay may be granted by the DAL or its successor upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing, and only upon a showing that there is no potential harm to the residents being served by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6821. Complaint Investigations

A. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13, et seq.

B. Complaint investigations shall be unannounced.

C. Upon request by the department, an acceptable plan of correction must be submitted to the department for any complaint investigation where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, denial of license renewal, and license revocation for non-compliance with any state law or regulation.

F. The department's surveyors and staff shall be given access to all areas of the ARCP and all relevant files during any complaint investigation. The department's surveyors and staff shall be allowed to interview any provider staff or resident as necessary or required to conduct the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6823. Statement of Deficiencies

A. Any statement of deficiencies issued by the department to the ARCP provider must be posted in a conspicuous place on the licensed premises.

B. Any statement of deficiencies issued by the department to an ARCP provider must be available for disclosure to the public 30 days after the provider receives the statement of deficiencies or after the receipt of an acceptable plan of correction, whichever occurs first.

C. Unless otherwise provided in statute or in this licensing rule, a provider shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing and received by the department within 10 calendar days of receipt of the statement of deficiencies.

3. 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.

4. The request for informal reconsideration of the deficiencies must be made to the department's Health Standard Section.

5. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided for license denials, license revocations and denials of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

6. The provider shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter B. Administration and Organization

§6827. Governing Body

A. Each ARCP shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the ARCP and ultimate authority for:

1. the overall operation of the ARCP;
2. the adequacy and quality of care;
3. the financial solvency of the ARCP and the appropriate use of its funds;
4. the implementation of the standards set forth in these regulations; and
5. the adoption, implementation and maintenance, in accordance with the requirement of state and federal laws and regulations and these licensing standards, of adult residential care and administrative policies governing the operation of the ARCP.

B. The ARCP shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. The governing body shall be composed of two or more persons.

D. The governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of an ARCP shall:

1. ensure the ARCP's compliance and conformity with the provider's charter or other organizational documents;
2. ensure the ARCP's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;
3. ensure that the ARCP is adequately funded and fiscally sound;
4. review and approve the ARCP's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the ARCP;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director; and
9. meet with designated representatives of the department whenever required to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6829. Policy and Procedures

A. The ARCP shall have written policies and procedures approved by the governing body that, at a minimum, address the following:

1. confidentiality and security of files;
2. publicity and marketing;
3. personnel;
4. resident's rights;
5. grievance procedures;
6. resident's funds;
7. emergency preparedness planning procedures to include plans for evacuation and sheltering in place;
8. abuse and neglect;
9. incidents and accidents;
10. pre-residency screening and residency criteria and limitations;
11. medication management;
12. nursing services;
13. smoking;
14. pet policy;
15. resident responsibilities;
16. record-keeping;
17. infection control; and
18. any other area required in accordance with memorandums issued by the department's Health Standards Section.

B. Personnel Policies. An ARCP shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;
2. written job descriptions for each staff position;
3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with State Sanitary Code;
4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment

whether that abuse or mistreatment is done by another staff member, a family member, a resident or any other person; and

6. a policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter C. Residency Criteria, Person-Centered Service Plans and Residency Agreements

§6833. Pre-Residency and Continued Residency

A. Information to prospective residents. The ARCP shall provide to prospective residents written information regarding conditions for residency, services, costs, fees and policies/procedures. This written information shall include, but is not limited to the following:

1. the application process and the possible reasons for rejection of an application;
2. types of residents suitable to the ARCP;
3. services offered and allowed in the ARCP;
4. resident's responsibilities;
5. policy regarding smoking;
6. policy regarding pets;
7. fee structure, including but not limited to any additional costs for providing services to residents during natural disasters e.g. tropical storms, hurricanes, floods, etc.; and
8. criteria for termination of residency agreement.

B. The ARCP shall complete and maintain a pre-residency screening of the prospective resident to assess the applicant's needs and appropriateness for residency.

1. The pre-residency screening shall include:
   a. the resident's physical and mental status;
   b. the resident's need for personal assistance;
   c. the resident's need for assistance with activities of daily living and instrumental activities of daily living; and
   d. the resident's ability to evacuate the ARCP in the event of an emergency.
2. The pre-residency screening shall be completed and dated before the residency agreement is signed.

C. Prohibited Health Conditions. There are individuals who are not eligible for residency in ARCPs because their conditions and care needs are beyond the scope of the ARCP's capacity to deliver services and ensure residents' health, safety, and welfare. ARCPs may not enter into agreements with residents with such conditions. These prohibited health conditions include:

1. stage 3 or stage 4 pressure ulcers;
2. nasogastric tubes;
3. ventilator dependency;
4. dependency on BiPap, CPAP or other positive airway pressure device without the ability to self-administer at all times;
5. coma;
6. continuous IV/TPN therapy (TPN - Total Parental Nutrition, intravenous form of complete nutritional sustenance);
7. wound vac therapy (a system that uses controlled negative pressure, vacuum therapy, to help promote wound healing);
8. active communicable tuberculosis; and
9. any condition requiring chemical or physical restraints.

D. ARCP residents with a prohibited condition may remain in residence on a time limited basis provided that the conditions listed below are met. Time limited is defined as 90 days.

1. The resident, the resident's representative, if appropriate, the resident's physician and the provider shall agree that the resident's continued residency is appropriate.
2. The resident's physician has certified that the condition is time limited and not permanent.
3. The ARCP is prepared to coordinate with providers who may enter the ARCP to meet time limited needs. Level 4 ARCPs may deliver or contract for the additional services to meet time limited needs pursuant to this section.
4. The resident or the resident's representative, if appropriate, shall deliver or contract with a third party provider for the delivery of services necessary to meet the residents' increased health and service needs which are beyond the scope of the services of the ARCP.
   a. It is the responsibility of the ARCP to assure that needed services are provided, even if those services are provided by the resident's family or by a third party or contracted provider. A copy of such third party contract shall be verifiable, in writing, and retained in the resident's record. The ARCP retains responsibility for notifying the resident or the resident's representative, if appropriate, if services are not delivered or if the resident's condition changes.
5. The ARCP or an affiliated business owned in full or in part by the owner or any member of the board of directors shall be not the third party providing the services.
6. The care provided, as allowed under this section, shall not interfere with ARCP operations or create a danger to others in the ARCP.

E. In Level 4 ARCPs, residents whose health needs increase may continue to reside in the ARCP and receive intermittent nursing services from the ARCP in accordance with the PCSP if the services are within the scope provided for in these regulations.

F. Residents who are receiving hospice services may continue to reside in all levels of the ARCP as long as the resident's physician deems that the resident's needs can be met.

G. Residency Agreement. The ARCP shall complete and maintain individual residency agreements with all persons who move into the ARCP or with the resident's representative where appropriate.

1. The ARCP residency agreement shall specify the following:
   a. clear and specific criteria for residency, continued residency and termination of residency agreements and procedures for termination of residency agreements;
   b. basic services provided;
   c. optional services;
   d. payment provisions for both basic and optional services, including the following:
      i. service packages and any additional charges for services;
      ii. regular/ordinary and extra fees;
      iii. payer source;
      iv. due dates; and
      v. deposits;

e. procedures for the modification of the residency agreement, including provision of at least 30 days prior written notice to the resident of any rate change;

f. requirements around notice before voluntarily terminating the residency agreement;

g. refund policy;

h. the delineation of responsibility among the following parties: the ARCP, the resident, the family, the resident's representative and/or others;

i. residents' rights; and

j. grievance procedures.

2. The ARCP shall allow review of the residency agreement by an attorney or other representative chosen by the resident.

3. The residency agreement shall be signed by the director and by the resident or the resident's representative if appropriate.

4. The residency agreement shall conform to all relevant federal, state and local laws and requirements including but not limited to landlord-tenant (lessor-lessee) laws.

H. When the resident moves in, the ARCP shall:

1. obtain from the resident or if appropriate, the resident's representative, the resident's plan for both routine and emergency medical care which shall include:

a. the name of physician(s); and

b. provisions and authorization for emergency medical care.

2. provide the resident with a copy of the ARCP's emergency and evacuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6835. Person-Centered Service Plan

A. An assessment shall be initiated upon entry to the ARCP and completed within seven calendar days of the date that the resident moves into the ARCP to determine the service needs and preferences of the resident.

1. This assessment shall be kept in the resident's record.

2. If the resident's person-centered service plan includes staff administration of medication or intermittent nursing services, the assessment for those services shall be completed by a registered nurse.

B. Within 30 calendar days after the date the resident moves in, the ARCP designated staff in conjunction with the resident and/or the resident's representative, if appropriate, shall develop a PCSP using information from the assessment. The PCSP shall include:

1. the services required to meet the resident's individual needs;

2. the scope, frequency, and duration of services;

3. monitoring that will be provided; and

4. who is responsible for providing the services, including contract or arranged services.

C. If the resident is enrolled in a home and community-based services waiver that includes ARCP as a service, a comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid or by a department program office for reimbursement purposes may be substituted for the PSCP. If the resident needs services beyond those provided for in the comprehensive plan of care, the PSCP must be coordinated with the comprehensive plan of care.

D. A documented review of the PCSP shall be made at least every 90 calendar days and on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. Changes to the plan may be made at any time, as necessary.

E. All plans, reviews and updates shall be signed by the resident, ARCP staff, and the resident's representative, if appropriate. If the resident's PCSP includes staff administration of medication or intermittent nursing services, a registered nurse shall also sign the plans, reviews and updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6837. Termination of Residency Agreements

A. Voluntary Termination of Residency Agreement

1. The residency agreement shall specify:

a. the number of days and the process for notice required for voluntary termination of the residency agreement; and

b. the circumstances under which prepaid service charges and deposits are not refundable to the individual.

B. Involuntary Termination of Residency Agreements

1. The resident shall be allowed to continue residency in the ARCP unless one of the following occurs:

a. the resident's mental or physical condition deteriorates to a level requiring services that cannot be provided in accordance with these licensing regulations;

b. the resident's mental or physical condition deteriorates to a level requiring services that exceed those agreed upon in the residency agreement and PCSP;

c. the safety of other residents or staff in the ARCP is endangered;

d. the health of other residents or staff in the ARCP would otherwise be endangered;

e. the resident or resident's representative has failed to pay for a resident's stay at the ARCP; or

f. the ARCP ceases to operate.

2. Involuntary Termination Process

a. The resident and the resident's representative shall be notified in writing of the intent to terminate the residency agreement.

b. The notice shall be written in a language and in a manner that the resident and the resident's representative understand.

c. The written notice shall be given no less than 30 calendar days in advance of the proposed termination.

d. The notice shall contain the reason for the involuntary termination and the resident's right to appeal.

3. The resident and the resident's representative shall have the right to appeal any involuntary termination of the residency agreement to the DAL or its successor entity which shall provide a fair hearing in all such appeals.

4. The involuntary termination of the residency agreement shall be suspended until a final determination is made by the DAL.

5. If the involuntary termination of the residency agreement is upheld, the ARCP shall provide assistance in locating an appropriate residence and services.

C. Emergencies. If an emergency arises whereby the resident presents a direct threat of serious harm, serious injury or death to the resident, another resident, or staff, the ARCP shall immediately contact appropriate authorities to determine an appropriate course of action.

1. The resident's removal from the premises in response to an emergency does not constitute termination of the residency agreement. Required notice as described above shall be provided if the ARCP wishes to terminate the residency agreement.

2. The ARCP shall document the nature of the emergency and the ARCP's response to it.

3. The ARCP shall notify the resident's representative of all emergencies immediately after notification of the appropriate authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter D. Adult Residential Care Provider Services

§6839. General Provisions

A. The services provided by the ARCP are dependent in part upon the level for which they are licensed and in part upon the optional services that the ARCP elects to provide.

B. An ARCP shall provide, make available, coordinate, or contract for services to meet a resident's personal and health care needs as identified in the resident's PCSP, to meet scheduled and unscheduled care needs, and to make emergency assistance available 24 hours a day. These services shall be provided in a manner that does not pose an undue hardship on residents.

1. An ARCP shall respond to changes in residents' needs for services by revising the PCSP and, if necessary, by adjusting its staffing plan or contracting for services from other providers.

2. The ARCP shall provide adequate services and oversight/supervision including adequate security measures, 24 hours per day as needed for any resident.

3. The ARCP shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases with its policy meeting or exceeding the latest criteria established by the Centers for Disease Control and State Sanitary Code.

C. Number of Residents. The maximum number of residents that an ARCP shall serve will be based upon the level and plan as approved by the OSFM and/or the department's Health Standards Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6841. Required and Optional Services

A. Required services. The ARCP must provide or coordinate, to the extent needed or desired by each resident, the following required services:

1. assistance with activities of daily living and instrumental activities of daily living;

2. meals;

3. basic personal laundry services or laundry facilities;

4. opportunities for individual and group socialization including regular access to the community resources;

5. transportation either provided or arranged by the ARCP;

6. housekeeping services essential for health and comfort of the resident (e.g., floor cleaning, dusting, changing of linens); and

7. a recreational program.

B. Optional Services

1. All Levels of ARCPs may provide the services listed below. If these optional services are provided, they must be provided in accordance with the PCSP:

a. medication administration;

b. financial management; and

c. specialized dementia care programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6843. Medication Administration

A. The ARCP shall have written policies and procedures on medication administration including self-administration, assistance with self-administration, and staff administration of medications. There shall also be policies regarding obtaining and refilling medications; storing and controlling medications, disposing of medications, and documentation of medication administration.

B. The ARCP shall record in the resident's PCSP whether the resident can self-administer medication, needs assistance with self-administration or requires staff administration of medication. The determination of the need for staff administration of medication will be made by the resident's physician. The PCSP shall also include how the medication will be obtained and stored.

C. Levels of Administration

1. Self-Administration. Unless otherwise indicated in the PCSP, residents shall have the option to self-administer their own medications. Residents who are appropriate for this service will be aware of what the medication is, what it is for and the need for the medication. Self-medication means residents can maintain possession and control of their medications. However, the ARCP shall require the resident to undertake reasonable precautions to ensure the safety of other residents.

2. Assistance with Self-Administration. Unless otherwise indicated in the PCSP, residents may elect assistance with self-medication if it is a service offered by the ARCP. Residents who are appropriate for this service will be aware of what the medication is, what it is for and the need for the medication.

a. Assistance with self-administration may be provided by staff members who hold no professional licensure, as long as that employee has documented training on the policies and procedures for medication assistance, including the limitations of assistance. This training must be repeated at least annually.

b. Assistance with self-administration of medication shall be limited to the following:

i. reminding residents that it is time to take medication(s), where such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed;

ii. reading the medication regimen as indicated on the container to the resident;

iii. physically assisting residents who are familiar with their medications by opening or helping to open a container holding oral medications;

iv. offering liquids to residents who are familiar with their medications to assist that resident in ingesting oral medications; and

v. physically bringing a container of oral medications to residents.

c. Assistance with self-administration of medications shall not include:

i. administering injections of any kind;

ii. administering eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;

iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

3. Staff Administration of Medication

a. The ARCP shall administer medications to ARCP residents in accordance with their PCSP. Staff administration of medications may be provided by all levels of ARCPs.

b. Medications shall be administered only by an individual who is currently licensed to practice medicine or osteopathy by the appropriate licensing agency for the state, or by an individual who is currently licensed as an RN or LPN by the appropriate state agency.

c. In Level 4 ARCPs, staff administration of medication may include intravenous therapy. Intravenous therapy is permitted on a time limited basis and must be under the supervision of a licensed RN, physician, or advanced practice nurse.

d. Medication Orders and Records

i. Medications, including over-the-counter medications, may be administered to a resident of an ARCP only after the medications have been prescribed specifically for the resident by an individual currently licensed to prescribe medications. All orders for medications shall be documented, signed and dated by the resident's licensed practitioner.

ii. Only an authorized licensed medical professional shall accept telephone orders for medications from a physician or other authorized practitioner. All telephone orders shall be documented in the resident's record. The telephone order shall be signed by the prescriber within 14 days of the issuance of the order.

iii. The ARCP is responsible for:

(a). complying with the physician orders, associated with medication administration;

(b). clarifying orders as necessary;

(c). notifying the physician of resident refusal of the medication or treatment; and

(d). notifying the physician of any adverse reactions to medications or treatments;

iv. All medications administered by staff to residents in an ARCP, including over the counter medications, shall be recorded on a medication administration record at the same time or immediately after the medications are administered;

v. The medication administration record shall include at least the following:

(a). the name of the resident to whom the medication was administered;

(b). the name of the medication administered (generic, brand or both);

(c). the dosage of the medication administered;

(d). the method of administration, including route;

(e). the site of injection or application, if the medication was injected or applied;

(f). the date and time of the medication administration;

(g). any adverse reaction to the medication; and

(h). the printed name and written signature of the individual administering the medication.

vi. Medication administration records and written physician orders for all over-the-counter medications, legend drugs and controlled substances shall be retained for period of not less than five years. They shall be available for inspection and copying on demand by the state regulatory agency.

vii. The most current edition of drug reference materials shall be available.

viii. All medication regimes and administration charting shall be reviewed by a licensed RN at least weekly to:

(a). determine the appropriateness of the medication regime;

(b). evaluate contraindications;

(c). evaluate the need for lab monitoring;

(d). make referrals to the primary care physician for needed monitoring tests;

(e). report the efficacy of the medications prescribed; and

(f). determine if medications are properly being administered in the ARCP.

D. Storage of Medications

1. An ARCP shall not stock or dispense resident medications. Where medications are kept under the control or custody of an ARCP, the medications shall be packaged by the pharmacy and shall be maintained by the ARCP in unit dose or multi-dose packaging.

2. For residents who do not self-administer their medications, the ARCP shall require pharmacies to perform a monthly review of all ordered medication regimens for possible adverse drug interactions and to advise the ARCP and the prescribing health care provider when adverse drug interactions are detected. The ARCP shall notify the prescribing health care provider of the pharmacist's review related to possible adverse drug interactions and shall have documentation of this review and notification in the resident's record.

3. Medication stored by the ARCP shall be stored in an area inaccessible to residents and accessible only to authorized personnel. This area must be kept locked. Any other staff (e.g., housekeeping, maintenance, etc.) needing access to storage areas must be under the direct visual supervision of authorized personnel.

4. All medications must be stored in accordance with industry standards or according to manufacturer's recommendations.

5. If controlled substances prescribed for residents are kept in the custody of the ARCP, they shall be stored in a manner that is compliant with local, state and federal laws. At a minimum, controlled substances in the custody of the ARCP shall be stored using a double lock system, and the ARCP shall maintain a system to account for the intake, distribution, and disposal of all controlled substances in its possession and maintain a written policy and procedure regarding such.

6. All other medications in the ARCP shall be stored using at least a single lock mechanism. This shall include medications stored in a resident's room whereby the staff and the resident have access to the medications. When residents self-administer their medications, the medications shall be stored in a locked area or container accessible only to the resident and staff or may be stored in the resident's living quarters, if the room is single occupancy and has a locking entrance.

7. Any medication stored by the ARCP requiring refrigeration shall be kept separate from foods in separate containers within a refrigerator and shall be stored at appropriate temperatures according to the medication specifications. A daily temperature log must be maintained at all times for the refrigerator. No lab solutions or lab specimens may be stored in refrigerators used for the storage of medications or food.

8. The medication preparation area shall have an operable hand washing sink with hot and cold water, paper towels and soap.

9. Medications shall be under the direct observation of the person administering the medications or locked in a storage area.

E. Labeling of Medications

1. All containers of medications shall be labeled in accordance with the rules of the Board of Pharmacy and any local, state, and federal laws.

2. Medication labels shall include appropriate cautionary labels. (e.g., shake well, take with food, or for external use only.)

3. Medications maintained in storage must contain the original manufacturer's label with expiration date or must be appropriately labeled by the pharmacy supplying the medications.

4. Any medications labeled for single resident use may not be used for more than one resident.

5. Any medication container with an unreadable label shall be returned to the issuing pharmacy for relabeling. Conditions that might affect readability include but are not limited to detachment, double labeling, excessive soiling, wear or damage.

F. Disposal of Medications

1. All medications and biologicals disposed of by the ARCP shall be according to ARCP policy and subject to all local, state and federal laws.

2. Prescription and over-the-counter medications and biologicals dispensed to residents that are unused because the medication is discontinued or because the resident expires, shall be destroyed within 30 days. Unused non-controlled medications may be donated to a charitable clinic as designated in the ARCP's policy prior to the 30 day time limit.

3. Expired medications shall not be available for resident or staff use. They shall be destroyed no later than 30 days from their expiration/discontinuation date.

4. Medications awaiting disposition must be stored in a locked storage area.

5. Medications of residents who no longer reside in the ARCP shall be returned to the resident or the resident's representative, if appropriate. The resident or the resident's representative shall sign a statement that these medications have been received. The statement shall include the pharmacy, prescription number, date, resident's name, name and strength of the medication and amount returned. This statement shall be maintained in the resident's termination of services record. Discontinued medications shall not be stored or housed in the ARCP longer than 30 days.

6. When medication is destroyed on the premises of the ARCP, a record shall be made and filed at the ARCP according to ARCP policy.

a. This record shall include, but is not limited to:

i. name of ARCP;
ii. name of the medication;
iii. method of disposal;
iv. pharmacy;
v. prescription number;
vi. name of the resident;
vii. strength of medication;
viii. dosage of medication;
ix. amount destroyed; and
x. reason for disposition.

b. This record shall be signed and dated by the individual performing the destruction and by at least one witness.

c. The medication must be destroyed by a licensed pharmacist, RN or physician.

7. Controlled Dangerous Substances shall be destroyed in accordance with the provisions of Title 46, Part LIII, Chapter 27 Subchapter F. §2749 of the *Louisiana Administrative Code* (LAC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6845. Intermittent Nursing Services

A. Intermittent nursing services may be provided by Level 4 ARCPs only. At no time shall an ARCP serve as provider for a resident whose condition is so unstable as to require continuous monitoring by licensed professional staff.

B. Where intermittent nursing services are provided, the following provisions shall apply.

1. All nursing services shall be provided in accordance with acceptable standards of practice and shall be delivered as prescribed by the resident's physician and in accordance with the PCSP.

2. The ARCP shall have written policies and procedures governing intermittent nursing services, including but not limited to the following:

a. responding to medical emergencies on all shifts;

b. ensuring that there is sufficient nursing staff to meet the needs of the residents;

c. ensuring that the ARCP's licensed nurse is notified of nursing needs as identified in the PCSP for each resident;

d. defining the duties, responsibilities and limitations of the ARCP licensed nurse in policy and procedures;

e. defining the policy for conducting nursing assessments;

f. delegating and training of ARCP staff to assist with nursing services;

g. coordinating with other third party contracted health service providers;

h. documentation by nursing personnel; and

i. infection control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6847. Transportation

A. If the resident's condition is such that they are unable to manage their own transportation needs, the ARCP shall provide or arrange transportation for the following at no additional cost:

1. all medical services, including ancillary services for medically-related care (e.g., physician, pharmacist, therapist, podiatrist) to providers within a 50 mile radius;

2. scheduled personal services, including barber/beauty services;

3. scheduled personal errands; and

4. social/recreational opportunities.

B. For non-routine transportation, the resident may be charged additional fees provided that the resident or the resident's representative, if appropriate, is notified in writing in advance and agrees to such charges.

C. The ARCP shall ensure and document that any vehicle used in transporting residents, whether such vehicles are operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law. The ARCP shall also have current commercial liability insurance.

D. When transportation services are provided by the ARCP, whether directly or by third party contract the provider shall:

1. document and ensure that drivers have a valid chauffer's license or commercial driver's license with passenger endorsement upon hire;

2. ensure drivers are trained in assisting residents in accordance with the individual resident's needs;

3. obtain documentation to ensure a safe driving record from the Department of Motor Vehicles (DMV) upon hire and annually; and

4. ensure drivers meet personnel and health qualifications of other staff.

E. Vehicles shall be handicapped accessible or otherwise equipped to meet the needs of residents served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6849. Meals

A. The ARCP shall offer to residents who chose to participate in congregate meals, at a minimum, three varied, palatable meals per day, seven days a week that take into account the resident's preferences and needs. Foods shall be prepared and served in a way that assures that they are appetizing, attractive, and nutritious and that promotes socialization among the residents.

B. The ARCP shall make reasonable accommodations, as stated in the residents' PCSP to:

1. meet dietary requirements, including following medically prescribed diets;

2. meet religious and ethnic preferences;

3. meet the temporary need for meals delivered to the resident's living area;

4. meet residents' personal routines and preferences; and

5. ensure snacks, fruits and beverages are available to residents at all times.

C. Staff shall be available in the dining area to assist with meal service, meal set up and to give individual attention as needed.

1. Dietary staff shall not store personal items within the food preparation and storage areas.

2. The kitchen shall not be used for dining of residents or unauthorized personnel.

3. Dietary staff shall use good hygienic practices.

4. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

5. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

6. Garbage and refuse shall be kept in durable, easily cleanable, covered containers that do not leak and do not absorb liquids.

7. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

D. If a licensed dietitian is not employed full-time, the ARCP shall designate a full-time person to serve as the dietary manager.

1. The dietary manager who oversees food preparation may also fulfill other staff roles in the ARCP.

2. The dietary manager shall have Servsafe® certification.

E. Serving times for congregate meals shall be posted.

F. The ARCP's menus for congregate meals, at a minimum, shall be reviewed and approved by a nutritionist or licensed dietician to assure their nutritional appropriateness for the setting's residents.

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more prominent place(s) for the current week in order to facilitate resident's choices about whether they wish to join in the congregate meals.

2. The ARCP shall furnish medically prescribed diets to all residents for which it is designated in the service plan.

3. Records of all menus as serviced shall be kept on file for at least 30 days.

4. All substitutions made on the master menu shall be recorded in writing.

G. Therapeutic diets, if prescribed by a medical practitioner and prepared by the ARCP, shall be documented in the resident's record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary manager

when the resident does not receive the ordered diet or is unable to consume the diet, with action taken as appropriate.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All food preparation areas (excluding areas in residents units) shall be maintained in accordance with LAC Title 51 State Sanitary Code. Pets are not allowed in food preparation and serving areas.

J. If food is prepared in a central kitchen and delivered to separate physical sites, provision shall be made for proper maintenance of food temperatures and a sanitary mode of transportation.

K. Refrigeration

1. The ARCP's refrigerator(s) shall be maintained at a temperature of 41 degrees Fahrenheit or below.

2. The ARCP shall maintain daily temperature logs for all refrigerators and freezers.

3. Food stored in the refrigerator shall be covered, labeled, and dated.

L. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

M. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

N. Poisonous and toxic materials shall be appropriately identified, labeled and placed in locked cabinets which are used for no other purpose.

O. Written reports of inspections by OPH shall be kept on file in the ARCP.

P. If meals are provided by a third party service, the ARCP retains the responsibility to ensure that all regulations of this part are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6851. Specialized Dementia Care Programs

A. Scope and Purpose. The ARCP may establish a separate and distinct program to meet the needs of residents with Alzheimer's disease or other forms of dementia. The ARCP shall provide a program of individualized care based upon an assessment of the cognitive and functional abilities of residents who have been included in the program.

B. Any ARCP that offers such a program shall disclose this program to the department upon establishing the program or upon its discontinuance.

C. Policies and Procedures

1. An ARCP that advertises, promotes or markets itself as offering a specialized dementia care program shall have written policies and procedures for the program that are retained by the administrative staff and available to all staff, to members of the public, and to residents, including those participating in the program.

2. The ARCP shall have established criteria for inclusion in the specialized dementia care program.

3. Guidelines for inclusion shall be provided to the resident, his/her family, and his/her legal representative.

4. Door locking arrangements to create secured areas may be permitted where the clinical needs of the residents require specialized protective measures for their safety, provided that such locking arrangements are approved by the OSFM and satisfy the requirements established by the OSFM.

a. If the services are provided in a secured area where special door locking arrangements are used, the ARCP shall comply with the requirements established for Limited Health Care occupancies in accordance with the laws, rules and codes adopted by the OSFM.

b. The secured areas shall be designed and staffed to provide the care and services necessary for the resident's needs to be met.

c. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

d. PCSPs shall address the reasons for the resident being in the unit and how the ARCP is meeting the resident's needs.

e. There must be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

f. Inclusion in a program on the unit must be in compliance with R.S. 40:1299.53.

D. Staff Training. Training in the specialized care of residents who are diagnosed by a physician as having Alzheimer's disease or other forms of dementia shall be provided to all persons employed by the ARCP in accordance with the provisions established in §6867 of this Chapter.

E. Disclosure of Services. An ARCP that advertises or markets itself as offering a specialized dementia are program shall provide in writing the following to any member of the public seeking information about the program:

1. the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons;

2. the philosophy and mission reflecting the needs of residents living with dementia;

3. the criteria for inclusion in the program and for discontinuance of participation should that become appropriate;

4. the assessment, care planning and the processes for ensuring the care plan's responsiveness to the changes in the resident's condition;

5. the staffing patterns, training and continuing education;

6. the physical environment and design features appropriate to support the functioning of residents living with dementia;

7. the involvement of families and the availability of family support programs;

8. the activities that are specifically directed toward residents diagnosed with Alzheimer's or other form of dementia, including, but not limited to, those designed to maintain the resident's dignity and personal identity, enhance socialization and success, and accommodate the cognitive and functional ability of the resident;

9. the frequency of the activities that will be provided to such residents;

10. the safety policies and procedures and any security monitoring system that is specific to residents diagnosed with Alzheimer's or other form of dementia, including but

not limited to safety and supervision within the secured unit and within the secured exterior area; and

11. the program fees.

F. An ARCP that advertises or markets itself as having a specialized dementia care program shall provide a secured exterior area for residents to enjoy the outdoors in a safe and secure manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter E. Resident Protection

§6855. Resident Rights

A. ARCPs shall have a written policy on resident rights and shall post and distribute a copy of those rights. In addition to the basic civil and legal rights enjoyed by other adults, residents shall have the rights listed below. ARCP policies and procedures must be in compliance with these rights. Residents shall:

1. be encouraged in the exercise of their civil or legal rights, benefits or privileges guaranteed by the Constitution of the United States and the Constitution of the State of Louisiana including the right to be free of discrimination or segregation based upon race, sex, handicap, religion, creed, national background or ancestry with respect to residency;

2. be treated as individuals in a manner that supports their dignity;

3. be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;

4. participate and have family participate, if desired, in the planning of activities and services;

5. receive care and services that are adequate, appropriate, and in compliance with contractual terms of residency, relevant federal and state laws, rules and regulations and shall include the right to refuse such care and services;

6. receive upon moving in, and during his or her stay, a written statement of the services provided by the ARCP and the charges for these services;

7. be free from mental, emotional, and physical abuse and neglect, from chemical or physical restraints, and from financial exploitation and misappropriation of property;

8. have records and other information about the resident kept confidential and released only with the written consent of the resident or resident's representative or as required by law;

9. expect and receive a prompt response regarding requests (service, information, etc.) from the director and/or staff;

10. have the choice to contract with a third-party provider for ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, hospice,) and other services necessary as long as the resident remains in compliance with the contractual terms of residency;

11. be free to receive visitors of their choice without restriction except where the residents share bedrooms or apartments;

NOTE: Where residents do share bedrooms or apartments, reasonable restrictions that provide for the health, safety and privacy of other residents shall be allowed.

12. manage their personal funds unless this authority has been delegated to the ARCP or to a third party by the resident, the resident's legal representative, or an agency that has the authority to grant representative payee status or fiscal management authority to a third party;

13. be notified, along with their representative in writing by the ARCP when the ARCP's license status is modified, suspended, revoked or denied renewal and to be informed of the basis of the action;

14. have choices about participation in community activities and in preferred activities, whether they are part of the formal activities program or self-directed;

15. share a room with a spouse or other consenting adult if they so choose;

16. voice grievances and suggest changes in policies and services to staff, advocates or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal and the ARCP shall make prompt efforts to address grievances including with respect to the behavior of other residents;

17. remain in their personal living area unless a change in the area is related to resident preference or to conditions stipulated in their contract, or necessitated by situations or incidents that create hazardous conditions in the living area;

18. live in a physical environment which ensures their physical and emotional security and well-being;

19. bring service animals into the ARCP;

20. bring pets into the ARCP if allowed by the ARCP and kept in accordance with the policies of the ARCP;

21. contact their advocates as provided by law;

22. be fully informed of all residents' rights and all rules governing resident conduct and responsibilities;

23. be informed of proposed policy changes 30 days in advance; and

24. be informed of how to lodge a complaint with the Health Standards Section, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents.

B. Publicity. No resident shall be photographed or recorded without the resident's prior informed, written consent.

1. Such consent cannot be made a condition for joining, remaining in, or participating fully in the activities of the ARCP.

2. Consent agreements shall clearly notify the resident of his/her rights under this regulation and shall specify precisely what use is to be made of the photograph or recordings. Residents are free to revoke such agreements at any time, either orally or in writing.

3. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the resident. Recordings from security cameras placed in common areas of the building are not subject to publicity requirements for consent and shall not be used for publicity purposes.

C. Each resident shall be fully informed of their rights and responsibilities, as evidenced by written acknowledgment, prior to or at the time of occupancy and when changes occur. Each resident's file shall contain a copy of the written acknowledgment, which shall be signed and

dated by the director and the resident and/or the resident's representative, if appropriate.

D. The ARCP shall prominently post the grievance procedure, resident's rights, and abuse and neglect procedures in an area accessible to all residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6857. Restraints

A. ARCPs are prohibited from the use of physical and chemical restraints. The ARCP shall establish and maintain a restraint free environment by developing individual approaches to the care of the resident as determined by resident assessments and PCSPs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6859. Resident Representation and Grievance Procedures

A. Resident Association. The provider shall have a formal process and structure by which residents, in representative groups and/or as a whole, are given the opportunity to advise the director regarding resident services and life at the ARCP. Any resident association requests, concerns or suggestions presented through this process will be addressed by the director within a reasonable time frame, as necessitated by the concern, request or suggestion.

B. Grievance Procedure. A provider shall establish and have written grievance procedures to include, but not limited to:

1. a formal process to present grievances;
2. a formal appeals process for grievances;
3. a process to respond to residents and resident association requests and written grievances within seven days; and
4. the maintenance of a log to record grievances, investigation and disposition of grievances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6861. Resident Personal Property and Funds

A. Personal Possessions. The ARCP may, at its discretion, offer safekeeping of valuable possessions. The ARCP shall have a written statement of its policy regarding the safekeeping of valuable possessions.

1. If the ARCP offers such a service, a copy of the written policy and procedures shall be given to a resident at the time of his/her occupancy.

2. The ARCP shall give the resident a receipt listing each item that the ARCP is holding in trust for the resident. A copy of the receipt shall be placed in the resident's record. The list shall be revised as items are added or removed.

B. Resident Funds

1. An ARCP may offer to safe keep residents' readily accessible personal funds up to $200 and/or assist with management of funds in excess of $200. The ARCP shall ensure that the resident's funds are readily available upon resident's request.

2. The residency agreement shall include the resident's rights regarding access to the funds, limits on incremental withdrawals, and the charges for the service, if any.

3. The ARCP shall provide a surety bond or otherwise provide assurance satisfactory to the secretary to assure the security of all personal funds entrusted to the ARCP.

4. If an ARCP offers the service of safekeeping readily accessible personal funds up to $200, and if a resident wishes to entrust funds, the ARCP:

a. shall obtain written authorization from the resident and/or the resident's representative, if appropriate, as to safekeeping of funds;

b. shall provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident;

c. shall maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction; and

d. shall afford the resident the right to examine the account during routine business hours.

5. If an ARCP offers the service of assisting with management of funds in excess of $200, the following shall apply.

a. The ARCP shall obtain written authorization to manage the resident's funds from the resident and the representative if applicable.

b. The resident shall have access through quarterly statements and, upon request, financial records.

c. The ARCP shall keep funds received from the resident for management in an individual account in the name of the resident.

d. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or director of the resident's estate, or the resident's representative, if appropriate, with a complete accounting of all the resident's funds and personal property being held by the ARCP. The ARCP shall release the funds and property in accordance with all applicable state laws.

6. If ARCP staff is named as representative payee by Social Security or the Railroad Retirement Board or as fiduciary by the US Department of Veterans Affairs, in addition to meeting the requirements of those agencies, the ARCP shall hold, safeguard, manage and account for the personal funds of the resident as follows:

a. The ARCP shall deposit any resident's personal funds in excess of $50 in an interest bearing account (or accounts) separate from the ARCP's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there shall be a separate accounting for each resident's share.

b. The ARCP shall maintain a resident's personal funds that do not exceed $50 in a non-interest bearing account, interest bearing account, or petty cash fund.

c. The ARCP shall establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the ARCP on the resident's behalf.

i. The system shall preclude any comingling of resident funds with ARCP funds or with the funds of any person other than another resident.

ii. The individual financial record shall be available through quarterly statements and on request to resident and/or the resident's representative, if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter F. Requirements Related to Staff, Record-Keeping and Incident Reports

§6863. General Provisions

A. The ARCP shall have qualified staff sufficient in number to meet the scheduled and unscheduled needs of residents and to respond in emergency situations.

B. Sufficient direct care staff shall be employed or contracted to ensure provision of personal assistance as required by the resident's PCSP.

C. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.

D. A staff member trained in the use of cardio pulmonary resuscitation (CPR) and first aid shall be on duty at all times.

E. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and staff.

F. The ARCP shall maintain a current work schedule for all employees showing actual coverage for each 24-hour day.

G. Criminal history checks and offers of employment shall be completed in accordance with R.S. 40:1300.52.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6865. Staffing Requirements

A. At a minimum the following staff positions are required. For ARCPs Level 2 through 4, one person may occupy more than one position in the ARCP but shall not be in this position on the same shift. In a Level 1 ARCP, one person may occupy more than one staff position on the same shift.

1. Director. Each ARCP shall have a qualified director who is responsible for the day-to-day management, supervision, and operation of the ARCP and who shall be on-site no less than 20 hours per week.

a. One or more assistant directors may be required, based upon the licensed capacity of the ARCP. The department may make a determination that one or more assistant directors are necessary based upon compliance history.

b. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

c. The director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

d. Director Qualifications

i. For Levels 1 and 2, the director shall meet one of the following criteria upon date of hire:

(a). have at least an Associate's Degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration; or

(b). in lieu of an Associate's Degree from an accredited college three years of experience in health, social services, geriatrics, management, administration; or

(c). a Bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

ii. For Levels 3 and 4, the director shall meet one of the following criteria upon date of hire:

(a). a Bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics;

(b). in lieu of a Bachelor's degree, six years of administrative experience in health, social services, or geriatrics;

(c). a Master's degree in geriatrics, health care administration, or in a human service related field; or

(d). be a licensed nursing facility administrator.

iii. Additionally, for Level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 40 hours of training that has been approved by any one of the following organizations:

(a). Louisiana Board of Examiners of Nursing Facility Administrators;

(b). Louisiana Assisted Living Association (LALA);

(c). LeadingAge;

(d). Louisiana Nursing Home Association (LNHA); or

(e). any of the national assisted living associations, including the:

(i). National Center for Assisted Living (NCAL); or

(ii). Assisted Living Federation of America (ALFA).

iv. Training shall begin within six months and completed within 12 months of being appointed director.

v. Two years of experience as an assisted living director may be substituted in lieu of the certification requirements.

vi. Documentation of the director's qualifications shall be maintained on file at the ARCP.

2. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the ARCP.

3. Direct Care Staff

a. The ARCP shall demonstrate that sufficient and trained direct care staff is scheduled and on-site to meet the 24-hour scheduled and unscheduled needs of the residents.

b. The ARCP shall be staffed with direct care staff to properly safeguard the health, safety and welfare of clients.

c. The ARCP shall employ direct care staff to ensure the provision of ARCP services as required by the PCSP.

d. Staff shall not work simultaneously at more than one ARCP on the same shift.

e. A direct care staff person who is not in the ARCP, but who is scheduled on the shift as on call shall not be included as direct care staff on any shift.

f. The ARCP shall maintain a current work schedule for all employees indicating adequate coverage for each 24-hour day.

B. Nursing staff

1. In ARCPs that offer staff medication administration and Level 4 ARCPs, the ARCP shall provide a sufficient number of RNs and LPNs to provide services to all residents in accordance with each resident's PCSP 24 hours per day.

2. Nursing Director

a. Level 4 ARCPs shall employ or contract with at least one RN who shall serve as the nursing director and who shall manage the nursing services. The nursing director need not be physically present at all times at the ARCP; however, the nursing director or his or her designee shall be on call and readily accessible to the ARCP 24 hours a day.

b. The nursing director, in conjunction with the resident's physician, shall be responsible for the preparation, coordination and implementation of the health care services section of the resident's PCSP.

c. The nursing director shall review and oversee all LPNs and direct care personnel with respect to the performance of health related services.

d. The nursing director shall be licensed by, and in good standing with, the Louisiana State Board of Nursing, and shall comply with all applicable licensing requirements.

3. Licensed Practical Nurses (LPNs). LPNs employed by or contracted with shall be licensed by, and in good standing with, the Louisiana State Board of Practical Nursing, and shall comply with all applicable nursing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6867. Staff Training

A. All staff shall receive the necessary and appropriate training to assure competence to perform the duties that are assigned to them.

1. All staff shall receive any specialized training required by law or regulation to meet resident's needs.

2. The ARCP shall maintain documentation that orientation and annual training has been provided for all current employees.

3. Orientation shall be completed within seven days of hire and shall include, in addition to the topics listed in §6867.B, the following topics:

a. the ARCP's policies and procedures; and

b. general overview of the job specific requirements.

B. The following training topics shall be covered in orientation and annually thereafter for all staff and ARCP contracted providers having direct contact with residents:

1. residents' rights;

2. procedures and requirements concerning the reporting of abuse, neglect, exploitation, misappropriation and critical incidents;

3. building safety and procedures to be followed in the event of any emergency situation including instructions in the use of fire-fighting equipment and resident evacuation procedures including safe operation of fire extinguishers and evacuation of residents from the building;

4. basic sanitation and food safety practices;

5. requirements for reporting changes in resident's health conditions; and

6. infection control.

C. Training for Direct Care Staff

1. In addition to the topics listed in §6867.A.3 and §6867.B, orientation for direct care staff shall include five days of direct observation of the performance of ADL and IADL assistance. A new employee shall not be assigned to carry out a resident's PCSP until competency has been demonstrated and documented.

2. Direct care staff shall receive 16 hours of continuing education annually and shall be recorded and maintained in the employee personnel file.

3. Annual training shall address the special needs of individual residents and address areas of weakness as determined by the direct care staff performance reviews.

4. All direct care staff shall receive certification in cardiac pulmonary resuscitation and adult first aid within the first 30 days of employment. The ARCP shall maintain the documentation of current certification in the staff's personnel file.

5. Orientation and five days of supervised training may qualify as the first year's annual training requirements. However, normal supervision shall not be considered to meet this requirement on an annual basis.

D. Continuing Education for Directors. All directors shall obtain 12 continuing education units per year. Topics shall include, but shall not be limited to:

1. person-centered care;

2. specialty training in the population served;

3. supervisory/ management techniques; and/or

4. geriatrics.

E. Third-Party Providers. A general orientation and review of ARCP policies and procedures is required to be provided to third-party providers entering the building to serve residents.

F. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices. New employees must receive such training within 90 days from the date of hire.

2. All employees who provide care to residents in a Specialized Dementia Care Program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and eight hours of dementia-specific training annually. The training shall include the following topics:

i. an overview of Alzheimer's disease and other forms of dementia;

ii. communicating with persons with dementia;

iii. behavior management;

iv. promoting independence in activities of daily living; and

v. understanding and dealing with family issues.

b. Employees who have regular contact with residents, but who do not provide direct face-to-face care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and two

hours of dementia training annually. This training shall include the following topics:

i. an overview of dementias; and

ii. communicating with persons with dementia.

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia.

3. Employees who do not provide care to residents in a special dementia care program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia-specific training annually. This training shall include the following topics:

i. an overview of Alzheimer's disease and related dementias; and

ii. communicating with persons with dementia.

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia.

4. Any dementia-specific training received in a nursing or nursing assistant program approved by the department or its designee may be used to fulfill the training hours required pursuant to this Section.

5. ARCPs may offer a complete training curriculum themselves, or they may contract with another organization, entity, or individual to provide the training.

6. The dementia-specific training curriculum shall be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual shall submit the following information to the department or its designee:

a. a copy of the curriculum;

b. the name of the training coordinator and his/her qualifications;

c. a list of all instructors;

d. the location of the training; and

e. whether or not the training will be web-based.

7. A provider, organization, entity, or individual shall submit any content changes to an approved training curriculum to the department, or its designee, for review and approval.

a. Continuing education undertaken by the ARCP does not require the department's approval.

8. If a provider, organization, entity, or individual, with an approved curriculum, ceases to provide training, the department shall be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual shall reapply to the department for approval to resume the program.

9. Disqualification of Training Programs and Sanctions. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements including, but not limited to:

a. the qualifications of training coordinators; or

b. training curriculum requirements.

10. Compliance with Training Requirements

a. The review of compliance with training requirements will include, at a minimum, a review of:

i. the documented use of an approved training curriculum; and

ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6869. Record Keeping

A. Administrative Records. The ARCP shall have an administrative record that includes:

1. the articles of incorporation or certified copies thereof, if incorporated, by-laws, operating agreements, or partnership documents, if applicable;

2. the written policies and procedures approved annually by the owner/governing body that address the requirements listed in this Subchapter;

3. the minutes of formal governing body meetings;

4. the organizational chart of the ARCP;

5. all leases, contracts, and purchase of service agreements to which the ARCP is a party, which includes all appropriate credentials;

6. insurance policies; and

7. copies of incident/accident reports.

B. Personnel Records. An ARCP shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment, including the resume of education, training, and experience, if applicable;

2. a criminal history check, prior to an offer of employment, in accordance with state law;

3. evidence of applicable professional or paraprofessional credentials/certifications according to state law, rule or regulation;

4. documentation of any state or federally required medical examinations or medical testing;

5. employee's hire and termination dates;

6. documentation of orientation and annual training of staff;

7. documentation of a valid chauffer's or commercial driver's license with passenger endorsement and DMV record;

8. documentation of reference checks;

9. annual performance evaluations. An employee's annual performance evaluation shall include his/her interaction with residents, family, and other providers; and

10. a copy of the grievance log.

C. Resident Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the ARCP in which the resident resides and readily available to ARCP staff and department staff. Each record shall contain the information below including but not limited to:

1. resident's name, marital status, date of birth, sex, Social Security number, and previous home address;

2. date of initial residency and date of termination of residency;

3. location of new residence following move-out;

4. name, address and telephone number of the resident's representative;

5. names, addresses, and telephone numbers of individuals to be notified in case of accident, death, or other emergency;

6. name, address, and telephone number of a physician to be called in an emergency;

7. ability to ambulate;

8. resident's plan/authorization for routine and emergency medical care;

9. the pre-residency assessment and service agreement;

10. assessment and any special problems or precautions;

11. individual PCSP, updates, and quarterly reviews;

12. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function without assistance with ADLs and IADLs or impacts the services the resident requires, including but not limited to all orders received from licensed medical practitioners;

13. a record of all personal property and funds which the resident has entrusted to the ARCP;

14. written and signed acknowledgment that the resident has been informed and received verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;

15. advance directives and requirements for assistance in emergency evacuation; and

16. documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.

D. Maintenance and Storage of Records. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws. An ARCP shall have sufficient space, facilities, and supplies for providing effective storage of records. The ARCP shall maintain the resident's records in the following manner.

1. Each resident shall have the right to inspect his or her records during normal business hours in accordance with state and federal law.

2. The ARCP shall not disclose any resident records maintained by the ARCP to any person or agency other than the ARCP personnel, law enforcement, the department, or the attorney general's office, except upon expressed written consent of the resident or his or her legal representative, or when disclosure is required by state or federal law or regulations.

3. The ARCP shall maintain the original records in an accessible manner for a period of five years following a resident's death or vacating the ARCP.

4. The original resident records, while the resident maintains legal residence at the ARCP, shall be kept on the ARCP premises at all times, unless removed pursuant to subpoena.

5. In the event of a change of ownership, the resident records shall remain with the ARCP.

6. An ARCP which is closing shall notify the department of the plan for the disposition of residents' records in writing within 30 days prior to closure. The plan shall include where the records will be stored and the name, address and phone number of the person responsible for the resident and personnel records.

7. If the ARCP closes, the ARCP owner(s) shall store the resident records for five years from the date of closure within the state of Louisiana.

E. Confidentiality and Security of Records

1. The ARCP shall have written procedures for the maintenance and security of records specifying:

a. who shall supervise the maintenance of records;

b. who shall have custody of records; and

c. to whom records may be released. Release shall be made in accordance with any and all federal and state laws.

2. The ARCP shall have a written procedure for protecting clinical record information against loss, destruction, or unauthorized use.

3. The ARCP shall ensure the confidentiality of all resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third-party payment contractor, or the resident. Information from, or copies of, records may be released only to authorized individuals, and the ARCP shall ensure that unauthorized individuals cannot gain access to or alter resident records.

4. Employees of the ARCP shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

5. The ARCP shall obtain the resident's, and, as appropriate, the resident's representative's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except to the department. Identification information may be given to appropriate authorities in case of an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6871. Incident and Accident Reports

A. An ARCP shall have written procedures for the reporting and documentation of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents. The procedures shall include:

1. a provision that the director or his/her designee shall be immediately verbally notified of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents; and

2. a provision that staff shall be trained on the reporting requirements.

B. An ARCP shall report to HSS any incidents suspected of involving:

1. abuse;

2. neglect;

3. misappropriation of personal property regardless of monetary value; or

4. injuries of unknown origin. Injuries of unknown origin are defined as:

a. the source of the injury was not observed by any person or the source of the injury could not be explained by the resident; or

b. the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma)

C. The initial report of the incident or accident is due within 24 hours of occurrence or discovery of the incident.

D. After submission of the initial 24-hour report, a final report shall be submitted within five business days regardless of the outcome.

E. Report Contents. The information contained in the incident report shall include, but is not limited to the following:

1. circumstances under which the incident occurred;
2. date and time the incident occurred;
3. where the incident occurred (bathroom, apartment, room, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. name and address of witnesses;
6. date and time family or representative was notified;
7. symptoms of pain and injury discussed with the physician; and
8. signatures of the director and the staff person completing the report.

F. When an incident results in death of a resident, involves abuse or neglect of a resident, or entails any serious threat to the resident's health, safety or well-being, an ARCP director or designee shall:

1. immediately report verbally to the director and submit a preliminary written report within 24 hours of the incident to the department;
2. notify HSS and any other appropriate authorities, according to state law and submit a written notification to the above agencies within 24 hours of the suspected incident;
3. immediately notify the family or the resident's representative and submit a written notification within 24 hours;
4. immediately notify the appropriate law enforcement authority in accordance with state law;
5. take appropriate corrective action to prevent future incidents and provide follow-up written report to all the above persons and agencies as per reporting requirements; and
6. document its compliance with all of the above procedures for each incident and keep such documentation (including any written reports or notifications) in the resident's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter G. Emergency Preparedness

§6875. Emergency Preparedness Plan

A. The ARCP shall have an emergency preparedness plan designed to manage the consequences of all hazards, declared disasters or other emergencies that have the potential to disrupt the ARCP's ability to provide care and treatment and/or threatens the lives or safety of the residents. The ARCP shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

1. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

B. The ARCP will work in concert with the local parish Office of Emergency Preparedness (OEP) in developing plans.

C. Upon the department's request, an ARCP shall present its plan for review. At a minimum, the plan shall include and address the elements listed below.

1. The plan shall be individualized and site specific. All information contained in the plan shall be current and correct. The ARCP's plan shall follow all current applicable laws, standards, rules or regulations.
2. Upon request, the plan shall be made available to representatives of the following offices:
   a. OSFM;
   b. OPH; and
   c. local Office of Homeland Security.
3. The plan shall contain census information, including transportation needs for current census and available capacity.
4. The plan shall contain a clearly labeled and legible master floor plan(s) that indicates the following:
   a. the areas in the ARCP, either in the resident's apartment or the other areas of the ARCP, that are to be used by residents as shelter or safe zones during emergencies;
   b. the location of emergency power outlets, if available (if none are powered or all are powered, this shall be stated on the plan); and
   c. the locations of posted, accessible, emergency information.
5. The plan shall provide for floor plans or diagrams to be posted and those plans or diagrams shall clearly indicate:
   a. that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and
   b. a separate floor plan or diagram with safe zones or sheltering areas for non-fire emergencies shall indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas.
6. The plan shall include a detailed list of what will be powered by emergency generator(s), if the ARCP has a generator.
7. The plan shall be viable and promote the health, safety and welfare of the residents.
8. The plan shall include a procedure for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This procedure will include:
   a. who will monitor;
   b. what equipment will be used; and
   c. procedures for notifying the director or responsible persons.
9. The plan shall provide for the delivery of essential care and services to meet the needs of the residents during emergencies, who are housed in the ARCP or by the ARCP at another location, during an emergency.
10. The plan shall contain information about staffing when the ARCP is sheltering in place or when there is an

evacuation of the ARCP. Planning shall include documentation of staff that have agreed to work during an emergency and contact information for such staff. The plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

11. The plan shall include procedures to notify each resident's family or responsible representative whether the ARCP is sheltering in place or evacuating to another site. The plan shall include which staff is responsible for providing this notification. If the ARCP evacuates, notification shall include:

a. the date and approximate time that the ARCP is evacuating;

b. the place or location to which the ARCP is evacuating, including the:

i. name;

ii. address; and

iii. telephone number.

12. The plan shall include the procedure or method whereby each ARCP resident has a manner of identification that is provided to them to be attached to his/her person. Residents shall be instructed to keep the identification on their person at all times in the event of sheltering in place or evacuation. The following minimum information shall be included with the resident:

a. current and active diagnosis;

b. medications, including dosage and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin or responsible person and contact information.

13. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the ARCP. If applicable, the plan shall also include an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

14. The plan shall include an evaluation of the ARCP's surroundings to determine lay-down hazards, objects that could fall on the ARCP, and hazardous materials in or around the ARCP, such as:

a. trees;

b. towers;

c. storage tanks;

d. other buildings;

e. pipe lines;

f. chemicals;

g. fuels; or

h. biologics.

15. For ARCPs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the ARCP will shelter in place and when the ARCP will evacuate for a storm or hurricane and the conditions that guide these determinations.

16. If the ARCP shelters in place, the ARCP's plan shall include provisions for seven days of necessary supplies to be provided by the ARCP prior to the emergency event, to include:

a. drinking water or fluids;

b. non-perishable food; and

c. other provisions as needed to meet the contractual obligations and current level of care requirements of each resident.

17. The plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be. The communications plan will include a secondary plan in the event primary communications fail.

18. The plan shall include how the ARCP will notify the local Office of Emergency Preparedness and the department when the decision is made to shelter in place or evacuate and whose responsibility it is to provide this notification.

D. The ARCP shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate and to meet the contractual obligations and current level of care requirements of each resident.

1. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

2. Transportation or arrangements for transportation shall be for the evacuation from and return to the ARCP or as needed to meet the contractual obligations or current level of care requirements of each resident.

E. The ARCP director, or designee, shall make the decision to evacuate or shelter in place after reviewing all available and required information on the storm, the ARCP, the ARCP's surroundings, and in consultation with the local office of Emergency Preparedness. In making the decision to shelter in place or evacuate, the ARCP shall consider the following:

1. under what conditions the ARCP will shelter in place;

2. under what conditions the ARCP will close or evacuate; and

3. when will these decisions be made.

F. The ARCP accepts all responsibility for the health and well-being of all residents that shelter with the ARCP before, during, and after the storm.

G. The ARCP shall have a plan for an on-going safety program to include:

1. inspection of the ARCP for possible hazards with documentation;

2. monitoring of safety equipment and maintenance or repair when needed and/or according to the recommendations of the equipment manufacturer, with documentation;

3. investigation and documentation of all accidents or emergencies;

4. fire control and evacuation planning with documentation of all emergency drills; and

5. all aspects of the ARCP's plan, planning, and drills which shall meet the requirements of the OSFM and the applicable edition of the NFPA 101 Life Safety Code published by the NFPA.

H. The ARCP shall inform the resident and/or the resident's representative of the ARCP's emergency plan and

ongoing safety plan and the actions to be taken. Current emergency preparedness plan information shall be available for review by the resident or the resident's representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6877. Emergency Plan Activation, Review and Summary

A. Following an event or occurrence of a disaster or emergency, whether the ARCP shelters in place or evacuates, upon request by the department the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;

2. plan provisions that were not followed;

3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

B. The ARCP's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

C. All ARCPs must conduct egress and relocation drills in accordance with the requirements of the OSFM and the applicable edition of the NFPA 101 Life Safety Code published by the NFPA.

1. All staff shall participate in at least one drill annually.

2. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

D. In addition to the exercises for emergencies due to fire, the ARCP plan shall be activated at least once per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters. The activation(s) shall include an exercise for shelter-in-place and an exercise for evacuation. The ARCP shall document the exercise for shelter-in-place and the exercise for evacuation.

E. The ARCP's performance during the activation of the plan shall be evaluated annually by the ARCP and the findings shall be documented in the plan. Records shall be kept to document the evacuation times and participation. Such records shall be maintained at the ARCP and shall be readily available to the OSFM upon request.

F. The plan shall be revised if indicated by the ARCP's performance during the emergency event or the planned drill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6879. Notification

A. The emergency preparedness plan shall specify the following:

1. list of all persons, agencies, authorities to be notified and routinely updated contact information;

2. process of notification;

3. verification or documentation of attempted notification; and

4. back-up communication plans and procedures.

B. An ARCP shall immediately notify the HSS Program Desk and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the ARCP.

C. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ARCP must immediately give notice to the HSS and GOHSEP by facsimile or e-mail of the following:

1. the date and approximate time of the evacuation; and

2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

D. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the ARCP must immediately give notice to the HSS by facsimile or e-mail of the following:

1. the date and approximate time of the evacuation; and

2. the location of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the HSS and the local OEP, then both HSS and the local OEP shall be notified of the changes within 48 hours of their occurrence.

F. Effective immediately upon notification of an emergency declared by the Secretary, all ARCPs licensed in Louisiana shall file an electronic report with the ESF-8 Portal and its applications during a declared emergency, disaster, or a public health emergency.

1. The electronic report shall be filed as prescribed by the department throughout the duration of the disaster or emergency event.

2. The electronic report shall include but not be limited to the following:

a. status of operation;

b. availability of beds;

c. generator status, if applicable;

d. evacuation destination(s)and status;

e. shelter in place status;

f. current census;

g. emergency evacuation transportation needs categorized by the following types:

i. red—high risk patients that need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot

be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; or

iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation; and

h. any other information as requested by the department.

3. There shall be a plan and procedures to file the report if primary communications fail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6881. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. The following applies to any ARCP that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency.

1. The ARCP must immediately give written notice to HSS by hand delivery, facsimile or e-mail of the following information:

a. the date and approximate time of the evacuation;

b. the sheltering host site(s) to which the ARCP is evacuating; and

c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the ARCP must notify HSS of any deviations from the intended sheltering host site(s) and must provide HSS with a list of all residents and their locations.

3. If there was no damage to the licensed location due to the emergency event, and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the ARCP may reopen at its licensed location and shall notify HSS within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, an ARCP must submit to HSS a written request to reopen, prior to reopening at the licensed location. The request to reopen shall include:

a. a damage report;

b. the extent and duration of any power outages;

c. the re-entry census;

d. staffing availability;

e. access to emergency or hospital services; and

f. availability and/or access to food, water, medications and supplies.

B. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the ARCP as necessary to make determinations regarding reopening.

C. After review of all documentation, in order to assure that the ARCP is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans, the department shall issue a notice of one of the following determinations:

1. approval of reopening without survey;

2. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or

3. denial of reopening.

D. The HSS, in coordination with state and parish OHSEP, will determine the ARCP's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

E. The HSS will give priority to reopening surveys.

F. Upon request by the department, the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;

2. plan provisions that were not followed;

3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed;

5. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths; and

6. a summary of all request for assistance made and any assistance received from the local, state, or federal government.

G. Sheltering in Place. If an ARCP shelters in place at its licensed location during an emergency event, the following will apply.

1. The ARCP must immediately give written notice to the HSS by hand delivery, facsimile or e-mail that the ARCP will shelter in place.

2. Upon request by the department, the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed;

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths; and

f. a summary of all request for assistance made and any assistance received from the local, state, or federal government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. The standards in this Subchapter shall apply to any ARCP constructed after the effective date of this rule, alterations, additions or substantial rehabilitation to an existing ARCP, or adaptation of an existing building to

create an ARCP. Cosmetic changes to the ARCP such as painting, flooring replacement or minor repairs shall not be considered an alteration or substantial rehabilitation.

B. An ARCP shall submit architectural plans and construction documents to the OSFM. The regulations and codes governing new ARCPs also apply if and when the ARCP proposes to begin operation in a building not previously and continuously used as an ARCP licensed under these regulations.

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. the applicable edition of NFPA 101—Life Safety Code;

2. Part XIV (Plumbing) of the Sanitary Code (LAC 51), State of Louisiana;

3. the applicable edition of the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines; and

4. the current department licensing regulations for adult residential care providers.

D. Life Safety Code Occupancy Requirements. Any ARCP that provides services three or more residents who are not capable of taking action for self-preservation under emergency conditions without the assistance of others shall meet the construction requirements established for Limited Care Health Care occupancies and codes adopted by the OSFM. All Level 4 ARCPs shall meet Limited Care Health Care occupancies and codes adopted by the OSFM.

E. During power outages or other emergencies, Level 4 ARCPs shall have the ability to generate power for emergency lighting, designated power outlets and temperature control.

F. Waivers. The Secretary may, within his or her sole discretion, grant waivers to physical environment requirements insofar as they do not conflict with the requirements of the OSFM or OPH. Requests for waivers are considered on the following basis.

1. The ARCP must demonstrate how resident health and safety and the maintenance of a homelike environment is not compromised.

2. No waiver shall be approved that results in an ARCP that is not physically distinct from any residential care facility, nursing home or hospital.

3. No waiver shall be approved which results in a living environment that does not provide all required physical features and/or does not provide sufficient space to permit residents to carry out, with or without assistance, all the functions necessary for independent living.

4. The ARCP shall demonstrate its ability to completely fulfill all other requirements of the service.

5. The department shall make a written determination of the request.

6. Waivers are not transferable in a CHOW and are subject to review or revocation upon any change in circumstances to the waiver.

G. All ARCPs licensed under these regulations shall be designed and constructed to substantially comply with pertinent local and state laws, codes, ordinances and standards. All new construction shall be in accordance with Louisiana Uniform Construction Code in effect at the time of original licensure.

H. Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:

1. space heaters;

2. the accumulation or storage within the ARCP of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners;

3. the use of candles, oil lamps, incense or open-flame devices; or

4. the use of extension cords or multi-plug adapters for electrical outlets, except ARCPs may utilize transient voltage surge protectors or surge suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any transient voltage surge protectors or surge suppressors shall have a maximum UL rating of 330v and shall have a functioning protection indicator light. ARCPs may not use transient voltage surge protectors or surge suppressors that do not function completely or for which the protection indicator light does not work.

I. Safety Standards for Smoking

1. Adult residential care providers may elect to prohibit smoking in the ARCP or on the grounds or both. If an ARCP elects to permit smoking in the ARCP or on the grounds, the ARCP shall include the following minimal provisions, and the ARCP shall ensure the following.

a. In ARCPs equipped with sprinkler systems, the ARCP may designate a smoking area or areas within the ARCP. The designated area or areas shall have a ventilation system that is separate from the ventilation system for non-smoking areas of the ARCP. ARCPs lacking a sprinkler system are prohibited from designating smoking areas within the ARCP.

b. Smoking shall be prohibited in any room or compartment where flammable liquids, combustible gases or oxygen is used or stored, and any general use/common areas of the ARCP. Such areas shall be posted with “no smoking” signs.

c. Smoking by residents assessed as not capable of doing so without assistance shall be prohibited unless the resident is under direct supervision.

d. Ashtrays of noncombustible material and safe design shall be placed in all areas where smoking is permitted.

e. Metal containers with self-closing cover devices into which ashtrays may be emptied shall be placed in all areas where smoking is permitted.

J. Kitchen/Food Service

1. Each ARCP shall comply with all applicable regulations relating to food service for sanitation, safety and health as set forth by state, parish and local health departments.

2. The ARCP shall have a central or a warming kitchen.

3. The kitchen of an ACRP shall be in compliance with the requirements of Part XXIII of the Louisiana Sanitary Code (LAC 51).

4. Level 3 and 4 ARCPs may opt out of having a central kitchen if meals are prepared in an off-site location.

a. ARCPs opting out shall have a kitchen area to hold, warm and serve food prepared at the off-site location. This kitchen area shall meet the Louisiana Sanitary Code requirements for food safety and handling.

b. Meals and snacks provided by the ARCP but not prepared on-site shall be obtained from or provided by an entity that meets the standards of state and local health regulations concerning the preparation and serving of food.

c. Opting out does not exempt ARCPs from meeting dining room space that is separate and distinct as referenced above in physical separation standards.

5. In ARCPs that have commercial kitchens with automatic extinguishers in the range hood, the manufacturer's recommendations regarding portable fire extinguishers shall be followed.

6. The kitchen and food preparation area shall be well lit, ventilated, and located apart from other areas to prevent food contamination in accordance with the State Sanitary Code.

7. An adequate supply of eating utensils (e.g., cups, saucers, plates, glasses, bowls, and flatware) will be maintained in the ARCP's kitchen to meet the needs of the communal dining program. Eating utensils shall be free of chips or cracks.

8. An adequate number of pots and pans shall be provided for preparing meals.

9. Each ARCP shall have adequate storage space. All storage space shall be constructed and maintained to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. Shelving shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf. All items shall be stored in accordance with State Sanitary Code.

10. Food waste shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied daily.

K. Laundry

1. Each ARCP shall have laundering facilities unless commercial laundries are used.

a. The laundry shall be located in a specifically designed area that is physically separate and distinct from residents' rooms and from areas used for dining and food preparation and service.

b. There shall be adequate rooms and spaces for sorting, processing and storage of soiled material.

c. Laundry rooms shall not open directly into a resident's personal living area or food service area.

2. Domestic washers and dryers for the use by residents may be provided in resident areas provided they are installed and maintained in such a manner that they do not cause a sanitation problem, offensive odors, or fire hazard.

3. Supplies and equipment used for housekeeping and laundry will be stored in a separate locked room. All hazardous chemicals will be stored in compliance with OPH requirements.

L. Lighting

1. All in-door areas of an ARCP shall be well lighted to ensure residents' safety and to accommodate need.

2. Night-lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

3. All rooms shall have working light switches at the entrance to each room.

4. Light fixtures in resident general use or common areas shall be equipped with covers to prevent glare and hazards to the residents.

M. HVAC/Ventilation

1. The ARCP shall provide safe HVAC systems capable of maintaining a temperature range of 71-81 degrees Fahrenheit.

2. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with manufacturer's specifications.

N. If the ARCP uses live-in staff, staff shall be provided with adequate, separate living space with a private bathroom. This private bathroom is not to be counted as available to residents.

O. An ARCP shall have space that is distinct from residents' living areas to accommodate administrative and record-keeping functions.

P. An ARCP shall have a designated space to allow private discussions with individual residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6887. Physical Appearance and Conditions

A. An ARCP shall ensure that all structures and grounds that are accessible to residents are maintained in good repair and are free from any hazards to health and safety. Potentially hazardous areas include but are not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads. Potentially hazardous areas shall be fenced off or have natural barriers to protect residents.

B. An accessible outdoor recreation area is required and shall be made available to all residents and include walkways suitable for walking and benches for resting. Lighting of the area shall be equal to a minimum of five foot-candles.

C. ARCPs shall have an entry and exit drive to and from the main building entrance that will allow for picking up and dropping off residents and for mail deliveries. ARCPs licensed after the effective date of this Rule shall have a covered area at the entrance to the building to afford residents protection from the weather.

D. If the ARCP maintains a generator on the grounds of the ARCP, it shall be fenced off or have natural barriers to protect residents.

E. Waste Removal and Pest Control

1. Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance to neighbors.

3. The ARCP shall have an effective pest control program through a pest control contract.

F. Signage. The ARCP's address shall be displayed so as to be easily visible from the street.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6889. Resident Dining and Common Areas

A. The ARCP shall provide common areas to allow residents the opportunity for socialization. Common areas shall not be confined to a single room.

B. The ARCP shall meet the following requirements for resident dining and common areas.

1. The common areas shall be maintained to provide a clean, safe and attractive environment for the residents.

2. Each ARCP shall have dining room and common areas easily accessible to all residents.

3. Dining rooms and common areas shall be available for use by residents at appropriate times to provide periods of social diversion and individual or group activities.

4. Common areas and dining rooms shall not be used as bedrooms.

C. Square Footage. Square footage requirements for common areas and dining room(s) are as follows.

1. Common areas shall be separate from the dining room with a combined total square footage of at least 60 square feet per resident as based on licensed capacity. Common areas do not include corridors and lobby areas for the purposes of calculation.

2. The ARCP shall have at least 20 square feet of designated dining space per resident if dining will be conducted in one seating. If dining will be conducted in two seatings, 10 square feet per resident will be required. ARCPs will document their dining seating plan, and maintain the documentation for review by the department.

D. Residents of the ARCP shall have access to the outdoors for recreational use. The parking lot shall not double as recreational space.

E. If the ARCP accepts residents that have dementia or cognitive impairments that make it unsafe for them to leave the building or grounds without supervision, an enclosed area shall be provided adjacent to the ARCP so that such residents may go outside safely.

F. With the exception of Level 1 ARCPs, the ARCP shall provide public restrooms of sufficient number and location to serve residents and visitors. Public restrooms shall be located close enough to common areas to allow residents to participate comfortably in activities and social opportunities.

G. For every 40 residents, there shall be, at a minimum, one dedicated telephone available for use in common areas.

1. The telephone shall allow unlimited local calling without charge.

2. Long distance calling shall be possible at the expense of the resident or the resident's representative via personal calling card, pre-paid telephone card, or similar methods.

3. The telephone shall be located away from frequently used areas so that residents shall be able to make telephone calls in an at least auditory privacy.

H. In ARCPs housing residents in more than one building, covered walkways with accessible ramps are required for buildings that house residents and areas intended for resident use, such as laundry facilities, dining rooms or common areas.

I. An ARCP shall not share common living, or dining space with another entity licensed to care for individuals on a 24-hour basis.

J. Space used for administration, sleeping, or passage shall not be considered as dining or common areas.

K. Adult Residential Care Providers in Shared Businesses

1. Physical and Programmatic Separation. If more than one business occupies the same building, premises, or physical location, the ARCP shall be both physically and programmatically distinct from the business to which it is attached or of which it is a part. ARCPs shall comply with R.S. 40:2007.

2. Entrance. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6891. Resident Personal Space

A. Level 1 ARCP Bedroom Requirements

1. A Level 1 ARCP shall ensure that each single occupancy bedroom space has a floor area of at least 100 net square feet and that each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each resident. Bathrooms and closets/wardrobes shall not be included in the calculation of square footage.

2. There shall be no more than two residents per bedroom. All shared living arrangements shall be agreed to in writing by both parties.

3. A room where access is through a bathroom or another bedroom shall not be approved or used as a resident's bedroom.

B. Level 2 ARCP Bedroom Requirements

1. A Level 2 ARCP shall ensure that each single occupancy bedroom space has a floor area of at least 100 net square feet and that each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each resident. Bathrooms and closets/wardrobes shall not be included in the calculation of square footage.

2. There shall be no more than two residents per bedroom. All shared living arrangements shall be agreed to in writing by both parties.

3. A room where access is through a bathroom or another bedroom shall not be approved or used as a resident's bedroom.

C. Requirements for Resident Bathrooms in Level 1 and 2 ARCPs

1. There shall be at least one bathroom for every four residents.

2. Bathrooms shall be equipped with one toilet, bathtub or shower, and a washbasin.

3. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

4. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

5. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

6. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

a. Hot water temperatures shall not exceed 120 degrees Fahrenheit.

7. Each bathroom shall be supplied with toilet paper, soap and towels.

8. Mirrors shall be provided and secured to the wall at convenient heights to allow residents to meet basic personal hygiene and grooming needs.

9. Bathrooms shall be located so that they open into the hallway, common area, or directly into the bedroom. If the bathroom opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

D. Requirements for Resident Apartments in Levels 3 and 4

1. All apartments in Levels 3 and 4 shall be independent and shall contain at a minimum the following areas:

a. a bedroom/sleeping area that can be distinguished by sight from other areas in the apartment;

b. a bathroom;

c. a kitchenette that can be distinguished by sight from other areas in the apartment;

d. a dining/living area; and

e. a closet/wardrobe.

2. Square Footage in Level 3 and 4 ARCPs

a. Efficiency/ studio apartments shall have a minimum of 250 net square feet of floor space, excluding bathrooms and closets and/or wardrobes.

b. Resident apartments with separate bedrooms shall be at minimum 190 square feet in living area excluding bathrooms and 100 square feet for each bedroom excluding closets and/or wardrobes.

3. Privacy of residents shall be maintained in all apartments.

4. Each apartment shall have an individual lockable entrance and exit. All apartments shall be accessible by means of a master key or similar system that is available at all times in the ARCP and for use by designated staff.

5. No apartment shall be occupied by more than two residents regardless of square footage. All shared living arrangements shall be agreed to in writing by both residents.

a. It is recognized that there may be more individuals in an ARCP due to husbands and wives sharing a living unit than is listed as the total licensed capacity.

6. Each apartment shall contain an outside window. Skylights are not acceptable to meet this requirement.

7. In new ARCPs licensed after the effective date of these regulations, the ARCP shall provide HVAC thermostats that can be individually controlled by the resident, with a locking mechanism provided, if required, to prevent harm to a resident.

8. Each apartment shall have a call system, either wired or wireless, monitored 24 hours a day by the ARCP staff.

9. Each apartment shall be equipped for telephone and television cable or central television antenna system.

10. Each apartment shall have access to common areas and dining room(s).

11. Kitchenettes

a. Each apartment shall contain, at a minimum, a small refrigerator, a wall cabinet for food storage, a small bar-type sink, and a counter with workspace and electrical outlets, a small cooking appliance, for example, a microwave or a two-burner cook top.

b. If the resident's assessment indicates that having a cooking appliance in the apartment endangers the resident, no cooking appliance shall be provided or allowed in the apartment or the cooking appliance may be disconnected.

12. Bathrooms. Each apartment shall have a separate and complete bathroom with a toilet, bathtub or shower, and sink. The bathrooms shall be ADA accessible.

a. Entrance to a bathroom from one bedroom shall not be through another bedroom.

b. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

c. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

d. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

e. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

i. Hot water temperatures shall not exceed 120 degrees Fahrenheit.

f. Each bathroom shall be equipped with an emergency call system that is monitored 24 hours a day by the ARCP staff.

13. Storage. The ARCP shall provide adequate portable or permanent closet(s) in the apartment for clothing and personal belongings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§6893. Furnishings and Equipment

A. Furniture for shared living rooms and sitting areas shall include comfortable chairs, tables, and lamps.

B. All furnishings and equipment shall be durable, clean, and appropriate to its function. Furnishings shall be tested in accordance with the provisions of the applicable edition of the NFPA 101 Life Safety Code.

C. Windows shall be kept clean and in good repair and supplied with curtains, shades or drapes. Each window that can be opened shall have a screen that is clean and in good repair.

D. All fans located within seven feet of the floor shall be protected by screen guards.

E. Throw or scatter rugs, or bath rugs or mats shall have a non-skid backing.

F. Wastepaper baskets and trash containers used in the common areas shall be metal or approved washable plastic baskets.

G. Residential Furnishings

1. Furniture. Each ARCP shall encourage residents to use their own furnishings and supplies and strive to maintain a home-like environment. However, if the resident does not have their own furniture, the ARCP shall provide basic furnishings. The basic furnishings shall be as described below.

a. Each resident shall have his/her own bed which includes a frame and a clean mattress and pillow. A double bed shall be provided for a married couple, if requested. Cots, bunk beds or portable beds are not allowed.

b. Residents with enuresis shall have mattresses with moisture resistance covers.

c. Each resident shall have a private dresser or similar storage area for personal belongings that is readily accessible to the resident.

d. Each bedroom shall have a closet which opens directly into the room and be of sufficient size to serve the occupant(s) of the bedroom. If the bedroom does not have a closet opening into the room, there shall be a moveable closet or wardrobe available in the bedroom. If a moveable closet or wardrobe is used, this space shall not be counted in the net floor space.

e. Each bedroom shall have window treatments to ensure privacy.

f. Each bedroom shall have at least one reading lamp.

2. In addition to the above, Levels 3 and 4 ARCPs shall have a minimum of two chairs and a table for dining in each apartment.

3. Bed and Bath linens. Residents may provide their own linens but may not be required by the ARCP to do so.

a. ARCPs shall have the option of charging an extra fee for this service if linens are provided.

b. If the ACRP furnishes linens either at additional cost or as part of the general fee, the ARCP shall have available at all times a quantity of bed and bath linen essential for proper care and comfort of all residents. All linens shall be in good condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

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 and autonomy as described in R.S. 49:972 by assuring the safe operation of facilities that render adult residential care 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 and community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello 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 Thursday, April 24, 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: Adult Residential Care Providers 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 $12,792 (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 proposes to repeal and replace the provisions governing the licensing standards for adult residential care providers and adult residential care homes in order to incorporate these provisions under a single comprehensive Rule in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to adult residential care providers 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
Health Standards Section Director	Staff Director
1403#058	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Behavioral Health Service Providers
Licensing Standards (LAC 48:I.Chapters 56-57, 73-74, and LAC 48:III.Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 48:I.Chapters 73-74 governing licensing standards for substance abuse/addiction treatment facilities and LAC 48:III.Chapter 5 governing licensing standards for mental health clinics in their entirety, and proposes to adopt LAC 48:I.Chapters 56 and 57 governing the licensing standards for behavioral health service providers as authorized by R.S. 36:254 and R.S. 40:2151-2161 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 308 of the 2013 Regular Session of the Louisiana Legislature provides for the repeal of R.S. 28:567 through 573 and R.S. 40:1058.1-1058.10, the statutory authority for the current licensing standards governing mental health clinics and substance abuse/addiction treatment facilities, upon the promulgation and publication of these Chapters,

and also resulted in the creation of R.S. 40:2151-2161, which requires the Department of Health and Hospitals, Bureau of Health Services Financing to adopt provisions governing the licensing standards for behavioral health service providers.

The department now proposes to repeal LAC 48:I.Chapters 73-74, governing the licensing standards for substance abuse/addiction treatment facilities and LAC 48:III.Chapter 5 governing the licensing standards for mental health clinics. In compliance with the directives of Act 308, the department also proposes to adopt provisions to establish licensing standards for behavioral health service providers.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5601. Introduction

A. Pursuant to R.S. 40:2151-2161, the Department of Health and Hospitals (DHH) hereby establishes licensing standards for behavioral health service (BHS) providers. The purpose of these Chapters is to provide for the development, establishment and enforcement of statewide licensing standards for the care of clients receiving services from BHS providers, to ensure the maintenance of these standards, and to regulate conditions of these providers through a program of licensure that shall promote safe and adequate treatment of clients of BHS providers.

B. In addition to the requirements stated herein, all licensed BHS providers shall comply with applicable local, state, and federal laws and regulations.

C. The following providers shall be licensed under the BHS provider license:

1. substance abuse/addiction treatment facilities;
2. mental health clinics; and
3. any other entity that meets the definition of a BHS provider.

D. Licensed substance abuse/addiction treatment facilities and mental health clinics have one year from the date of promulgation of this Chapter to comply with all of the provisions herein.

E. The following entities shall be exempt from the licensure requirements for BHS providers:

1. hospitals licensed under R.S. 40:2100 et seq.;
2. crisis receiving centers licensed under 40:2180.11 et seq.;
3. nursing homes licensed under R.S. 40:2009.3 et seq.;
4. psychiatric residential treatment facilities and therapeutic group homes licensed under R.S. 40:2009;
5. facilities or services operated by the federal government;
6. federally qualified health care centers (FQHCs) certified by the federal government;
7. community mental health centers certified by the federal government;
8. home and community-based service (HCBS) providers licensed under R.S. 40:2120.1 et seq.;
9. an individual licensed mental health professional (LMHP), whether incorporated or unincorporated, or a group practice of LMHPs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
10. an individual licensed physician, or a group of licensed physicians, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
11. an individual licensed physician assistant, or a group practice of licensed physician assistants, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
12. school-based health clinics/centers that are certified by the Department of Health and Hospitals, Office of Public Health, and enrolled in the Medicaid Program;
13. a health care provider or entity solely providing case management or peer support services, or a combination thereof;
14. a health care provider that meets all of the following criteria:
    a. was an accredited mental health rehabilitation provider enrolled in the Medicaid Program as of February 28, 2012;
    b. was enrolled with the statewide management organization for the Louisiana Behavioral Health Partnership as of March 1, 2012;
    c. maintains continuous, uninterrupted accreditation through a DHH approved accreditation organization;
    d. maintains continuous, uninterrupted enrollment with the statewide management organization for the Louisiana Behavioral Health Partnership;
15. an individual licensed advanced practice registered nurse, or a group practice of licensed advanced practice registered nurses, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
16. rural health clinics licensed under R.S. 40:2197; and
17. facilities or services operated by the Department of Public Safety and Corrections, Corrections Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5603. Definitions

Abuse—the infliction of physical or mental injury or the causing of the deterioration of an individual by means including, but not limited to, sexual abuse, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement. Examples include:

1. corporal punishment;
2. nutritional or sleep deprivation;
3. efforts to cause fear;
4. use of any form of communication to threaten, curse, shame or degrade an individual;
5. any coercive, illegal or restrictive actions unjustified by the individual's condition; and
6. any other act or omission classified as abuse by Louisiana law, including the *Louisiana Children's Code*.

Accredited—the process of review and acceptance by an accreditation body.

Active Client—a client that is being treated for addictive disorders at least every 90 days or a client that is being treated for mental health disorders at least every 180 days.

Addictionologist—a licensed physician who is either of the following:

1. certified by the American Board of Psychiatry and Neurology with a subspecialty in addiction psychiatry; or
2. certified by the American Board of Addiction Medicine.

Addiction Outpatient Treatment Program (ASAM Level I)—an outpatient program that offers comprehensive, coordinated, professionally directed and defined addiction treatment services that may vary in level of intensity and may be delivered in a wide variety of settings. Services are provided in regularly scheduled sessions of fewer than nine contact hours a week.

Administrative Procedure Act—R.S. 49:950 et seq.

Administrative Reconsideration—DHH's internal process and procedure to review the issuance of a license revocation, suspension or denial of renewal.

Administrative Review—Health Standards Section's (HSS) review of documentation submitted by the provider in lieu of an on-site survey.

Administrator—the person who is in charge of the daily operation of the provider.

Admission—the formal acceptance of an individual for assessment and/or therapeutic services provided by the BHS provider.

Adolescent—an individual 13 through 17 years of age.

ADRA—addictive disorder regulatory authority.

Adult—an individual 18 years of age or older.

Advance Practice Registered Nurse (APRN)—a licensed registered nurse who is certified by a nationally recognized certifying body, such as the American Nurses Credentialing Center, as having an advanced nursing specialty and who meets the criteria for an advanced practice registered nurse as established by the Louisiana State Board of Nursing and is licensed as an APRN by the Louisiana State Board of Nursing.

Ambulatory Detoxification with Extended on-site Monitoring (ASAM Level II-D)—an organized outpatient addiction treatment service that may be delivered in an office setting or health care or behavioral health services provider by trained clinicians who provide medically supervised evaluation, detoxification and referral services. The services are designed to treat the client's level of clinical severity to achieve safe and comfortable withdrawal from mood-altering chemicals and to effectively facilitate the client's entry into ongoing treatment and recovery. The services are provided in conjunction with intensive outpatient treatment services (level II.1).

ASAM—American Society of Addiction Medicine.

Authorized Licensed Prescriber—a physician, physician assistant, nurse practitioner, or medical psychologist licensed in the state of Louisiana and with full prescriptive authority who is authorized by the BHS provider to prescribe treatment to clients of the specific BHS Provider at which he/she practices.

Behavioral Health Service (BHS) Provider or *Provider*—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services, presents itself to the public as a provider of behavioral health services.

Behavioral Health Services—mental health services, substance abuse/addiction treatment services, or a combination of such services, for adults, adolescents and children. Such services may be provided in a residential setting, in a clinic setting on an outpatient basis, or in a home or community setting.

Building and Construction Guidelines—structural and design requirements applicable to the BHS provider which does not include occupancy requirements.

Business Location—the licensed location and office of the BHS provider that provides services only in the home and/or community;

Case Management—the coordination of services, agencies, resources, or people within a planned framework of action toward the achievement of goals established in the treatment plan that may involve liaison activities and collateral contracts with other providers.

Certified Addiction Counselor (CAC)—any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a CAC.

Change of Ownership (CHOW)—the sale or transfer whether by purchase, lease, gift or otherwise of a BHS provider by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a BHS provider or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the BHS provider.

Child—an individual under the age of 13.

Client—any person who has been accepted for treatment or services, including rehabilitation services, furnished by a provider licensed pursuant to this Chapter.

Client Education—information that is provided to clients and groups concerning alcoholism and other drug abuse, positive lifestyle changes, mental health promotion, suicide prevention and intervention, safety, recovery, relapse prevention, self-care, parenting, and the available services and resources. Educational group size is not restricted and may be offered as an outreach program.

Client Record—a single complete record kept by the provider which documents all treatment provided to the client and actions taken by the provider on behalf of the client. The record may be electronic, paper, magnetic material, film or other media.

Clinical Services—treatment services that include screening, assessment, treatment planning, counseling, crisis mitigation and education.

Clinically Managed High-Intensity Residential Treatment Program (ASAM Level III.5)—a residential program that offers continuous observation, monitoring, and treatment by clinical staff designed to treat clients experiencing substance-related disorders who have clinically-relevant social and psychological problems, such as criminal activity,

impaired functioning and disaffiliation from mainstream values, with the goal of promoting abstinence from substance use and antisocial behavior and affecting a global change in clients' lifestyles, attitudes and values.

Clinically Managed Low Intensity Residential Treatment Program (ASAM Level III.1)—a residential program that offers at least five hours a week of a combination of low-intensity clinical and recovery-focused services for substance-related disorders. Services may include individual, group and family therapy, medication management and medication education, and treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility and reintegrating the client into the worlds of work, education and family life (e.g., halfway house).

Clinically Managed Medium-Intensity Residential Treatment Program (ASAM Level III.3)—a residential program that offers at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services in a structured recovery environment to support recovery from substance-related disorders; is frequently referred to as extended or long term care.

Clinically Managed Residential Detoxification or Social Detoxification (ASAM LEVEL III.2D)—an organized residential program utilizing 24 hour active programming and containment provided in a non-medical setting that provides relatively extended, sub-acute treatments, medication monitoring observation, and support in a supervised environment for a client experiencing non-life threatening withdrawal symptoms from the effects of alcohol/drugs and impaired functioning and who is able to participate in daily residential activities.

Community Psychiatric Support and Treatment (CPST)—goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set forth in the client's individualized treatment plan. These supports and interventions are designed to improve behavioral health outcomes by utilizing evidence-based driven care.

Compulsive Gambling—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician or LMHP.

Controlled Dangerous 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 dangerous substance by amendment of supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.

Core Services—the essential and necessary elements required of every BHS provider, when indicated, including assessment, orientation, client education, consultation with professionals, counseling services, referral, crisis mitigation, medication management, rehabilitation services, and treatment.

Counselor in Training (CIT)—a person currently registered with the Addictive Disorder Regulatory Authority (ADRA) and pursuing a course of training in substance abuse/addiction treatment counseling which includes educational hours, practicum hours, and direct, on-site supervision.

Crime of Violence—an offense listed as a crime of violence in R.S. 14:2.

Crisis Intervention—face to face intervention provided to a client who is experiencing a psychiatric crisis. The services are designed to interrupt and/or ameliorate a crisis experience, via a preliminary assessment, immediate crisis resolution and de-escalation with referral and linkage to appropriate community services to avoid more restrictive levels of treatment.

Crisis Mitigation Services—a BHS provider's assistance to clients during a crisis that provides 24-hour on call telephone assistance to prevent relapse or harm to self or others, to provide referral to other services, and to provide support during related crises. Referral to 911 or a hospital's emergency department alone does not constitute crisis mitigation services.

Deemed Status—following the issuance of an initial license, the Department's acceptance of the BHS provider's accreditation as compliance with this Chapter in lieu of on-site licensing surveys.

Department—the Louisiana Department of Health and Hospitals (DHH) or any office or agency thereof designated by the Secretary to administer the provisions of this Chapter.

Dependent Children—any child/adolescent under the age of 18 that relies on the care of a parent or legal guardian.

Desk Review—a procedure for conducting informal reconsiderations of a complaint survey or administrative reconsiderations of a sanction by reviewing documentation submitted by the provider.

DHH Approved Accreditation Organization—any organization approved by DHH to accredit behavioral health providers, such as the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), and the Council on Accreditation (COA), and for opioid treatment programs, any organization approved by Substance Abuse and Mental Health Services Administration (SAMSA).

Diagnosis—the act of identifying a disease or behavioral health disorder as defined by the current version of the Diagnostic and Statistical Manual (DSM). A diagnosis is determined by a qualified LMHP or physician based on comprehensive assessment of physical evidence [if related to diagnosis], signs and symptoms, clinical and psycho-social evidence, and individual/family history.

Direct Care Staff—any member of the staff, including an employee, contractor or volunteer, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance, and clerical staff are not considered as direct care staff.

Disaster or *Emergency*—a local, community-wide, regional or statewide event that may include, but is not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. declared health crisis.

Dispense or *Dispensing*—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. "Dispense" necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

Dispensing Physician—any physician in the state of Louisiana who is registered as a dispensing physician with the Louisiana State Board of Medical Examiners and who dispenses to his/her patients any drug, chemical, or medication, except a bona fide medication sample.

Division of Administrative Law (DAL)—the Louisiana Department of State Civil Service, Division of Administrative Law or its successor.

Exploitation—act or process to use (either directly or indirectly) the labor or resources of an individual or organization for monetary or personal benefit, profit, or gain. Examples include the following:

1. use of a client's personal resources, such as a credit card, or insurance card to bill for inappropriate service;
2. use of the client's food stamps or other income to purchase food/services used by others; or
3. using the client to solicit money or anything of value from the public.

Facility Need Review (FNR)—a process that requires licensure applicants to prove the need for the services prior to applying for licensure. At the present time, only opioid treatment programs are required to obtain FNR approval prior to applying for a BHS provider license.

FDA—the United States Food and Drug Administration.

Financial Viability—the provider seeking licensure is able to provide verification and continuous maintenance of all of the following:

1. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000;
2. general and professional liability insurance of at least $500,000; and
3. workers' compensation insurance.

Grievance—a formal or informal written or verbal complaint that is made to the provider by a client or the client's family or representative regarding the client's care, abuse or neglect when the complaint is not resolved by staff present at the time of the complaint.

Health Standards Section (HSS)—the licensing and certification section of the Department of Health and Hospitals.

High Risk Behavior—includes substance abuse, gambling, violence, academic failure, delinquency behavior, and mental health issues such as depression, anxiety, and suicidal ideations.

Human Services District or Authority—an existing or newly created local governmental entity with local accountability and management of behavioral health and developmental disabilities services as well as any public health or other services contracted to the district by the department.

Human Services Field—an academic program with a curriculum content in which at least 70 percent of the required courses are in the study of behavioral health or human behavior.

Informal Dispute Resolution (IDR)—DHH's internal procedure to review the deficiencies cited at a survey when requested by the provider.

Informal Reconsideration—DHH's internal procedure to, at the request of the provider, conduct a review of deficiencies cited as a result of a complaint survey.

Intensive Outpatient Treatment Program (ASAM Level II.1)—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program must provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

Level of Care—intensity of services provided by the provider.

License—unless otherwise noted, a license issued by the department to a BHS provider.

Licensed Addiction Counselor (LAC)—any person who, by means of his specific knowledge, acquired through formal education and practical experience, is qualified to provide addiction counseling services and is licensed by the ADRA as a Licensed Addiction Counsel or pursuant to R.S. 37:3387.

Licensed Clinical Social Worker (LCSW)—a person duly licensed to independently practice clinical social work under R.S. 37:2702 et seq.

Licensed Marriage and Family Therapist (LMFT)—a person to whom a license has been issued and who is licensed to perform the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of individuals, couples and families. A LMFT is not permitted to diagnose a behavioral health disorder under his/her scope of practice under state law.

Licensed Mental Health Professional (LMHP)—an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts and the individual's professional license, as one of the following:

1. medical psychologist;
2. licensed psychologist;
3. licensed clinical social worker (LCSW);
4. licensed professional counselor (LPC);
5. licensed marriage and family therapist (LMFT);
6. licensed addiction counselor (LAC);
7. advance practice registered nurse (APRN); or
8. licensed rehabilitation counselor (LRC).

Licensed Professional Counselor—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which

the counselor assumes responsibility for knowledge, skill and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

Licensed Psychologist—any person licensed as a psychologist pursuant to R.S. 37:2352.

Licensed Rehabilitation Counselor (LRC)—any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar terms, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling. An LRC is also known as a licensed professional vocational rehabilitation counselor. An LRC is not permitted to provide assessment or treatment services for substance abuse/addiction, mental health or co-occurring disorders under his/her scope of practice under state law.

Master's-Prepared—an individual who has completed a master's degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

Medical Psychologist—a licensed psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the Louisiana State Board of Medical Examiners.

Medically Managed Residential Detoxification (Medically Supported Detoxification) (ASAM Level III.7D)—a residential program that provides 24-hour observation, monitoring and treatment delivered by medical and nursing professionals to clients whose withdrawal signs and symptoms are moderate to severe and thus require residential care, but do not need the full resources of an acute care hospital.

Medically Monitored Intensive Residential Treatment Program (ASAM Level III.7)—a residential program that provides a planned regimen of 24 hour professionally directed evaluation, observation, medical monitoring and addiction treatment to clients with co-occurring psychiatric and substance disorders whose disorders are so severe that they require a residential level of care but do not need the full resources of an acute care hospital. The program provides 24 hours of structured treatment activities per week, including, but not limited to, psychiatric and substance use assessments, diagnosis treatment, and habilitative and rehabilitation services.

Medication Administration—preparation and/or giving of a legally prescribed individual dose of medication to a client by qualified staff including observation and monitoring of a client's response to medication.

Mental Health Service—a service related to the screening, diagnosis, management, or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem.

Minor—any person under the age of 18.

Mothers with Dependent Children Program or Dependent Care Program—a program that is designed to provide substance abuse/addiction treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

Neglect—the failure to provide the proper or necessary medical care, nutrition or other care necessary for a client's well-being. Examples include the following:

1. failure to provide adequate nutrition, clothing or health care;
2. failure to provide a safe environment free from abuse or danger;
3. failure to maintain adequate numbers of appropriately trained staff; and
4. any other act or omission classified as neglect by Louisiana law.

Nonambulatory—unable to walk or accomplish mobility without assistance.

Nonprescription Medication—medication that can be purchased over-the-counter without an order from a licensed practitioner.

Nurse—any registered nurse with a license from the Louisiana State Board of Nursing or any practical nurse with a license from the Louisiana State Board of Practical Nurse Examiners.

Nurse Practitioner (NP)—an advance practice registered nurse educated in a specified area of care and certified according to the requirements of a nationally recognized accrediting agency such as the American Nurses Credentialing Center, National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties, or the National Certification Board of Pediatric Nurse Practitioners and Nurses, or as approved by the Louisiana State Board of Nursing and who is authorized to provide primary, acute, or chronic care as an advanced nurse practitioner acting within his/her scope of practice to individuals, families, and other groups in a variety of settings including, but not limited to, homes, institutions, offices, industry, schools, and other community agencies.

OBH—the DHH Office of Behavioral Health.

Off-Site—a parent facility's alternate program that provides behavioral health services on a routine basis in a geographic location that:

1. is detached from the parent provider;
2. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and
3. has a sub-license issued under the parent facility's license.

OHSEP—Office of Homeland Security and Emergency Preparedness.

On Call—immediately available for telephone consultation and less than one hour from ability to be on duty.

On Duty—scheduled, present and awake at the site to perform job duties.

OPH—the DHH Office of Public Health.

Opioid Treatment Program—a program that engages in medication-assisted opioid treatment of clients with an opioid agonist treatment medication.

OSFM—the Louisiana Department of Public Safety and Corrections, Office of State Fire Marshal.

Outpatient Clinic—a BHS provider that provides behavioral health services on-site at the provider's geographic location but is not a residential provider.

Outpatient Services—behavioral health services offered in an accessible non-residential setting to clients whose physical and emotional status allows them to function in their usual environment.

Parent Facility—the main building or premises of a behavioral health service provider where services are provided on-site and administrative records are maintained.

Physical Environment—the BHS provider's licensed exterior and interior space where BH services are rendered.

Physician–an individual who is currently licensed and in good standing in the state of Louisiana to practice medicine in Louisiana and who is acting within the scope of all applicable state laws and the individual's professional license.

Physician Assistant—an individual who is currently approved and licensed by and in good standing with the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a physician assistant, and who is acting within the scope of all applicable state laws and the individual's professional license.

Plan Review—the process of obtaining approval for construction plans and specifications for the BHS provider.

Prescription Medication—medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner or a dispensing physician and requires labeling in accordance with R.S. 37:1161 et seq.

Professional Board(s)—the entity responsible for licensure or certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.).

Psychosocial Rehabilitation (PSR)—face to face intervention with the client designed to assist with compensating for or eliminating functional deficits and interpersonal and/or environmental barriers associated with his/her mental illness.

Qualifying Experience—experience used to qualify for any position that is counted by using 1 year equals 12 months of full-time work.

Recovery Focused Services—services such as life skills training, job readiness, self-help meetings, parenting skills, training and recreation activities that should be coordinated with clinical services.

Referral—the BHS provider identifies needed services not provided by the provider and assists the client/family to optimally utilize the available support systems and community resources to meet the client's needs.

Registered Addiction Counselor (RAC)—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a registered addiction counselor. The RAC is not permitted an independent scope of practice and shall maintain a consulting relationship with an LAC .

Rehabilitative Services—services intended to promote the maximum reduction of symptoms and/or restoration of the client to his/her best age-appropriate functional level according to an individualized treatment plan.

Residential Treatment Program—a planned regimen of 24 hour professionally-directed evaluation, observation, monitoring and treatment of behavioral health conditions according to a treatment plan.

Secretary—the secretary of the Department of Health and Hospitals or his/her designee.

Self Administration—the client's preparation and direct application of a medication to his/her own body by injection, inhalation, ingestion or any other means.

Shelter in Place—a provider's decision to stay on-site rather than evacuate during a disaster or emergency.

Site/Premises—a single identifiable geographical location owned, leased, or controlled by a provider where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public streets, or have different geographical addresses.

Staff—individuals who provide services for the provider including employees, contractors, consultants and volunteers.

State Opioid Authority (SOA)—the agency or other appropriate officials designated by the governor, or his/her designee, to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug. The State Opioid Authority for the state of Louisiana is the Office of Behavioral Health.

Stock Medication—any medication obtained through a pharmacy or pharmacy contract that is not designated for a specific client.

Substance Abuse/Addiction Treatment Service—a service related to the screening, diagnosis, management, or treatment for the abuse of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof. May also be referred to as substance use disorder service.

Take-Home Dose(s)—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use.

Therapeutic Counseling Services or Sessions—individual or group therapeutic treatment that teaches skills to assist clients, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions and decision making and problem solving. Therapeutic counseling sessions consist of no more than 15 clients and last at least 15 minutes.

Treatment—the application of planned procedures to identify and change patterns of behaviors that are maladaptive, destructive and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning.

Treatment Plan—the provider's documentation of the client's issues, needs, ongoing goals and objectives of care based on admission information and updated based on the client's response to treatment.

Volunteer—an individual who offers services on behalf of the provider for the benefit of the provider willingly and without pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter B. Licensing

§5605. General Provisions

A. All BHS providers shall be licensed by the Department of Health and Hospitals. It shall be unlawful to operate as a BHS provider without a license issued by the department.

B. A BHS provider license authorizes the provider to provide behavioral health services.

C. A BHS provider license shall:

1. be issued only for the person/entity and premises named in the license application;

2. be valid only for the BHS provider to which it is issued and only for one geographic address of that provider approved by DHH;

3. be valid for up to one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;

4. expire on the expiration date listed on the license, unless timely renewed by the BHS provider;

5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

D. In order for the BHS provider to be considered operational and retain licensed status, the provider shall meet the following applicable operational requirements.

1. A BHS provider providing on-site services shall:

a. have established operational hours for a minimum of 20 hours per week, as indicated on the license application or change notification approved by DHH;

b. have services available and the required direct care staff on duty at all times during operational hours to meet the needs of the clients; and

c. be able to accept referrals during operational hours.

2. A BHS provider providing services only in the home and community shall:

a. have a business location which conforms to the provisions of §5691.B of this Chapter;

b. have at least one employee on duty at the business location during stated hours of operation; and

c. have direct care staff and professional services staff employed and available to be assigned to provide services to persons in their homes or in the community upon referral for services.

E. The licensed BHS provider shall abide by any state and/or federal law, rule, policy, procedure, manual or memorandum pertaining to BHS providers.

F. Provider Names. A BHS provider is prohibited from using:

1. the same name as another provider;

2. a name that resembles the name of another provider;

3. a name that may mislead the client or public into believing it is owned, endorsed or operated by the state of Louisiana when it is not.

G. Off-sites. A licensed BHS provider may have an off-site location with the approval of HSS that meets the following requirements.

1. The off-site may share a name with the parent facility if a geographic indicator (e.g. street, city or parish) is added to the end of the off-site name.

2. Each off-site shall be licensed as an off-site under the parent facility's license.

3. The off-site shall have written established operating hours.

4. The off-site shall operate either:

a. in the same or adjacent parish as the parent facility; or

b. for providers operated by a human service district or authority, within the jurisdiction of the district or authority.

5. A residential off-site shall be reviewed under the plan review process.

6. An initial survey may be required prior to opening a residential off-site.

7. An off-site shall have staff to comply with all requirements in this Chapter and who are present during established operating hours to meet the needs of the clients.

8. Personnel records and client records may be housed at the parent facility.

9. Clients who do not receive all treatment services at an off-site may receive the services at the parent facility or be referred to another provider that provides those services.

10. The off-site may offer less services than the parent facility and/or may have less staff than the parent facility.

11. The off-site together with the parent facility provides all core functions of a BHS provider and meets all licensing requirements of a BHS provider.

H. Plan Review

1. Plan review is required for outpatient clinics and residential BHS provider locations where direct care services or treatment will be provided, except for the physical environment of a substance abuse/addiction treatment facility or licensed mental health clinic at the time of this Chapter's promulgation.

2. Notwithstanding the provisions in this Section, any entity that will operate as a BHS provider and is required to go through plan review shall complete the plan review process and obtain approval for its construction documents in accordance with:

a. R.S. 40:1574;

b. the current *Louisiana Administrative Code* provisions;

c. OSFM requirements; and

d. the requirements for the provider's physical environment in Subchapter H of this Chapter.

3. Any change in the type of the license shall require review for requirements applicable at the time of licensing change.

4. Upon plan review approval, the provider shall submit the following to the department:

a. a copy of the final construction documents approved by OSFM; and

b. OSFM's approval letter.

I. Waivers

1. The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction

guidelines which are not part of or otherwise required under the provisions of the state *Sanitary Code* or the OSFM.

2. In order to request a waiver, the provider shall submit a written request to HSS that demonstrates:

a. how patient safety and quality of care offered is not compromised by the waiver;

b. the undue hardship imposed on the provider if the waiver is not granted; and

c. the provider's ability to completely fulfill all other requirements of service.

3. The department will make a written determination of each waiver request.

4. Waivers are not transferable in a change of ownership or geographic change of location, and are subject to review or revocation upon any change in circumstances related to the waiver.

J. The BHS provider shall maintain and make available to the department any information or records related to compliance with this Chapter.

K. The BHS provider shall permit designated representatives of the department, in performance of their duties, to:

1. inspect all areas of the BHS provider's operations; and

2. conduct interviews with any provider staff member, client or other person as necessary.

L. A BHS provider is prohibited from being the provider, an owner, officer, member, manager, administrator, medical director, managing employee or clinical supervisor who has been convicted of or entered a guilty or nolo contendere plea to a felony related to:

1. violence, abuse or neglect against a person;

2. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

3. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;

4. the misappropriation of property belonging to another person;

5. a crime of violence;

6. an alcohol or drug offense, unless the offender has:

a. completed his/her sentence, including the terms of probation or parole, at least five years prior to the ownership of or working relationship with the provider; and

b. been sober for the last two years;

7. possession or use of a firearm or deadly weapon;

8. Medicare or Medicaid fraud; or

9. fraud or misappropriation of federal or state funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5607. Initial Licensure Application Process

A. Any entity, organization or person interested in operating as a BHS provider must submit a completed initial license application packet to the department for approval. Initial BHS provider licensure application packets are available from HSS.

B. The completed initial licensing application packet shall include:

1. a completed BHS provider licensure application;

2. the non-refundable licensing fee as established by statute;

3. the plan review approval letter from OSFM, if the provider must go through plan review;

4. the on-site inspection report with approval for occupancy by the OSFM, if applicable;

5. the health inspection report with recommendation for licensure from the Office of Public Health;

6. a statewide criminal background check, including sex offender registry status, on all owners and managing employees;

7. except for governmental entities or organizations, proof of financial viability;

8. an organizational chart and names, including position titles of key administrative personnel and governing body;

9. a legible floor sketch or drawing of the premises to be licensed;

10. a letter of intent as to the type of BHS provider operated by the licensee and the types of services or specializations that will be provided by the BHS provider (e.g. addiction treatment program, mental health program, residential provider, outpatient provider, opioid treatment program);

11. if operated by a corporate entity, such as a corporation or a limited liability company, current proof of registration and status with the Louisiana Secretary of State; and

12. any other documentation or information required by the department for licensure.

C. Deadline for submitting initial licensure application for unlicensed agencies with the OBH certification.

1. Any unlicensed agency that was certified by OBH as a provider of psychosocial rehabilitation, crisis intervention and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

2. Any such unlicensed agency with OBH certification may continue to operate without a license during the licensing process until the department acts upon the initial license application and any and all appeal processes associated with the initial license is complete or the delay for taking an appeal has expired, whichever is later.

3. The department has the authority to issue a cease and desist order and pursue legal action for failure to comply with the deadline for submitting an initial licensure application.

D. If the initial licensing packet is incomplete, the applicant shall:

1. be notified of the missing information; and

2. have 90 days from receipt of the notification to submit the additional requested information or the application will be closed.

E. Once the initial licensing application is approved by the department, notification of such approval shall be forwarded to the applicant.

F. The applicant shall notify the department of initial licensing survey readiness within the required 90 days of receipt of application approval. If an applicant fails to notify the department of initial licensing survey readiness within 90 days, the application will be closed.

G. If an initial licensing application is closed, an applicant who is still interested in operating as a BHS provider must submit:

1. a new initial licensing packet;
2. non-refundable licensing fee; and
3. facility need review approval, if applicable.

H. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the BHS provider will be issued an initial license to operate.

I. A BHS provider is prohibited from providing behavioral health services to clients during the initial application process and prior to obtaining a license, unless it qualifies as one of the following facilities:

1. a licensed mental health clinic;
2. a licensed substance abuse/addiction treatment facility; or
3. an agency that is certified by OBH as a provider of psychosocial rehabilitation, community psychiatric support and treatment, and/or crisis intervention services.

J. Off-sites. In order to operate an off-site, the provider must submit:

1. a request for opening an off-site location;
2. a completed application, including established operational hours;
3. payment of applicable fees;
4. current on-site inspection reports from OSFM and OPH; and
5. for any residential off-site, plan review approval from OSFM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5609. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial licensing survey shall be conducted on-site to ensure compliance with the licensing laws and standards.

B. In the event that the initial licensing survey finds that the provider is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider.

C. In the event that the initial licensing survey finds that the provider is noncompliant with any licensing laws or regulations, or any other required rules or regulations, that present a potential threat to the health, safety, or welfare of the clients, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the BHS provider is noncompliant with any licensing laws or regulations, or any other required rules or regulations, and the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients, the department may:

1. issue a provisional initial license for a period not to exceed six months; and/or
2. conduct a follow-up survey following the initial licensing survey to ensure correction of the deficiencies.

a. If all deficiencies are corrected on the follow-up survey, a full license will be issued.

b. If the provider fails to correct the deficiencies, the initial license may be denied.

E. The initial licensing survey of a BHS provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5611. Types of Licenses

A. The department has the authority to issue the following types of licenses.

1. Initial License

a. The department shall issue a full license to the BHS provider when the initial licensing survey indicates the provider is compliant with:

i. all licensing laws and regulations;

ii. all other required statutes, laws, ordinances, rules, regulations; and

iii. fees.

b. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department may issue a provisional initial license to the BHS provider when the initial licensing survey finds that the BHS provider is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients.

a. The provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

b. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license will be issued.

c. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a client are cited, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fees.

3. Renewal License. The department may issue a renewal license to a licensed BHS provider that is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended.

4. Provisional License. The department may issue a provisional license to a licensed BHS provider for a period not to exceed six months.

a. A provisional license may be issued for one of the following reasons:

i. more than five deficiencies cited during any one survey;

ii. four or more validated complaints in a consecutive 12-month period;

iii. a deficiency resulting from placing a client at risk for serious harm or death;

iv. failure to correct deficiencies within 60 days of notification of such deficiencies or at the time of a follow-up survey; or

v. failure to be in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

b. The department may extend the provisional license for an additional period not to exceed 90 days in order for the provider to correct the deficiencies.

c. The provider shall:

i. submit a plan of correction to the department for approval; and

ii. correct all noncompliance or deficiencies prior to the expiration of the provisional license.

d. The department shall conduct a follow-up survey, either on-site or by administrative review, of the BHS provider prior to the expiration of the provisional license.

e. If the follow-up survey determines that the BHS provider has corrected the deficiencies and has maintained compliance during the period of the provisional license, the department may issue a license that will expire on the expiration date of the most recent renewal or initial license.

f. The provisional license shall expire if:

i. the provider fails to correct the deficiencies by the follow-up survey; or

ii. the provider is cited with new deficiencies at the follow-up survey indicating a risk to the health, safety or welfare of a client.

g. If the provisional license expires, the provider shall be required to begin the initial licensing process by submitting the following:

i. a new initial licensing application packet;

ii. a non-refundable licensing fee; and

iii. facility need review approval, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5613. Changes in Licensee Information or Personnel

A. A BHS provider shall report in writing to HSS within five days of any change of the following:

1. BHS provider's entity name;
2. business name;
3. mailing address;
4. telephone number; or
5. email address of the administrator.

B. Any change to the BHS provider's name or doing business as name requires a $25 nonrefundable fee for the issuance of an amended license with the new name.

C. A BHS provider shall report any change in the provider's key administrative personnel within five days of the change.

1. Key administrative personnel include the:

a. administrator;

b. medical director; and

c. clinical supervisor.

2. The BHS provider's notice to the department shall include the individual's:

a. name;

b. hire date; and

c. qualifications.

D. Change of Ownerships

1. A BHS provider shall report a change of ownership (CHOW) in writing to the department at least five days prior to the change. Within five days following the change, the new owner shall submit the following:

a. the legal CHOW document;

b. all documents required for a new license; and

c. the applicable nonrefundable licensing fee.

2. A BHS provider that is under license revocation or denial or license renewal may not undergo a CHOW.

3. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

E. Change in Geographic Location

1. A BHS provider that intends to change its geographic location shall submit:

a. written notice to HSS of its intent to relocate;

b. a plan review request, if applicable;

c. new license application;

d. nonrefundable license fee; and

e. other applicable licensing requirements.

2. In order to receive approval for the change of geographic location, the BHS provider must have:

a. plan review approval, if required;

b. approval from the OSFM and the OPH recommendation for licensure of the new geographic location;

c. an approved license application packet;

d. compliance with other applicable licensing requirements; and

e. an on-site licensing survey prior to relocation of the provider;

3. Upon approval of the requirements for a change in geographic location, the department shall issue a new license to the BHS provider.

F. Any request for a duplicate license shall be accompanied by a $25 fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5615. Renewal of License

A. A BHS provider license shall expire on the expiration date listed on the license, unless timely renewed by the BHS provider.

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the license renewal application;
2. a current OSFM report;
3. a current OPH inspection report;
4. the non-refundable license renewal fee as established by statute;
5. except for governmental entities or organizations, proof of financial viability; and
6. any other documentation required by the department.

C. The department may perform an on-site survey and inspection of the provider upon renewal.

D. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the BHS provider license upon the license expiration.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty or other action imposed by the department against the provider.

F. If a licensed BHS provider has been issued a notice of license revocation or suspension, and the provider's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

G. Voluntary Non-Renewal of a License

1. If a provider fails to timely renew its license, the license:

a. expires on the license's expiration date; and

b. is considered a non-renewal and voluntarily surrendered.

2. There is no right to an administrative reconsideration or appeal for a voluntary surrender or non-renewal of the license.

3. If a provider fails to timely renew its license, the provider shall immediately cease providing services. If the provider is actively treating clients, the provider shall:

a. within two days of untimely renewal, provide written notice to HSS of the number of clients receiving treatment;

b. within two days of untimely renewal, provide written notice to each active client's prescribing physician and to every client, or, if applicable, the client's parent or legal guardian, of the following:

i. voluntary non-renewal of license;

ii. date of closure; and

iii. plans for the transition of the client;

c. discharge and transition each client in accordance with this Chapter within 15 days of the license's expiration date; and

d. provide written notice to HSS of the location where client and personnel records will be stored and the name, address and phone number of the person responsible for the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5617. Deemed Status

A. A licensed BHS provider may request deemed status once it becomes accredited by the department approved accreditation organization.

B. The department may approve the deemed status request and accept accreditation in lieu of an on-site licensing survey when the provider provides documentation to the department that shows:

1. the accreditation is current and was obtained through the department approved accreditation organization;

2. all behavioral health services provided under the BHS provider license are accredited; and

3. the accrediting organization's findings.

C. If approved, accreditation will be accepted as evidence of satisfactory compliance with this Chapter in lieu of conducting a licensing survey.

D. To maintain deemed status, the provider shall submit a copy of current accreditation documentation with its license renewal application.

E. The department may rescind deemed status and conduct a licensing survey for the following:

1. any valid complaint within the preceding 12 months;

2. an addition of services;

3. a change of ownership;

4. issuance of a provisional license in the preceding 12-month period;

5. deficiencies identified in the preceding 12-month period that placed clients at risk for harm;

6. inappropriate treatment or service resulting in death or serious injury; or

7. a change in geographic location.

F. The provider shall notify the department when its accreditation status has changed.

G. The department shall rescind deemed status when the provider loses its accreditation.

H. A BHS provider approved for deemed status is subject to and shall comply with all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5619. Licensing Surveys

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing behavioral health providers and to ensure client health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. If deficiencies are cited, the department may require the provider to submit an acceptable plan of correction.

C. The department may conduct a follow-up survey following any survey in which deficiencies were cited to ensure correction of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5621. Complaint Investigations

A. Pursuant to R.S. 40:2009.13 et seq., the department shall conduct unannounced complaint investigations on all behavioral health providers, including those with deemed status.

B. The department shall issue a statement of deficiency to the provider if it finds a deficiency during the complaint investigation.

C. Plan of Correction

1. Once the department issues a statement of deficiencies, the department may require the provider to submit an acceptable plan of correction.

2. If the department determines that other action, such as license revocation, is appropriate, the provider:

a. may not be required to submit a plan of correction; and

b. will be notified of such action.

D. Follow up Surveys

1. The department may conduct a follow-up survey following a complaint investigation in which deficiencies were cited to ensure correction of the deficient practices.

2. If the department determines that other action, such as license revocation, is appropriate:

a. the department may determine that a follow-up survey is not necessary; and

b. the provider will be notified of such action.

E. Informal Reconsiderations of Complaint Investigations

1. A provider that is cited with deficiencies found during a complaint investigation has the right to request an informal reconsideration of the validity of the deficiencies. The provider's written request for an informal reconsideration must be received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies and must identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

2. An informal reconsideration for a complaint investigation shall be conducted by the HSS as a desk review. Oral presentations are prohibited.

3. Correction of the violation or deficiency shall not be the basis for the reconsideration.

4. The provider shall be notified in writing of the results of the informal reconsideration.

5. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), the informal reconsideration shall constitute final action by the department regarding the complaint investigation, and there shall be no further right to an administrative appeal.

F. Administrative Appeals

1. To request an administrative appeal the BHS provider shall submit the written request to the Division of Administrative Law (DAL), and the request must be received by the DAL within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The administrative law judge is:

a. limited to determining whether the investigation was conducted properly or improperly; and

b. precluded from overturning, deleting, amending or adding deficiencies or violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5623. Statement of Deficiencies

A. The BHS provider shall post the following statements of deficiencies issued by the department in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. each of the complaint survey statements of deficiencies, including the plans of the correction, issued after the most recent annual survey.

B. The BHS provider shall make its statements of deficiencies available to the public 30 days after the provider submits an acceptable plan of correction of the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Informal Dispute Resolutions

1. Unless otherwise provided in statute or in this Chapter, a BHS provider has the right to an informal dispute resolution (IDR) of any deficiencies cited as a result of a survey.

2. Correction of the violation, noncompliance or deficiency shall not be the basis for the IDR.

3. The BHS provider's written request for IDR must be received by HSS within 10 days of the provider's receipt of the statement of deficiencies and must identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

4. If a timely request for an IDR is received, the department shall schedule and conduct the IDR.

5. HSS shall notify the provider in writing of the results of the IDR.

6. Except as provided for complaint surveys and as provided in this Chapter:

a. the IDR decision is the final administrative decision regarding the deficiencies; and

b. there is no right to an administrative appeal of such deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5625. Cessation of Business

A. A BHS provider that intends to cease operations shall comply with the following procedures:

1. provide 30 days advance written notice to HSS and the client, or if applicable, the client's parent(s) or legal guardian;

2. within 30 days of closure, notify HSS of the location where the records will be stored and the name, address and phone number of the person responsible for the client records; and

3. discharge and transition all clients in accordance with the provisions of this Chapter.

B. If a BHS provider fails to follow these procedures, the department may prohibit the owners, managers, officers, directors, and/or administrators from opening, managing, directing, operating, or owning a BHS provider for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5627. Sanctions

A. The department may issue sanctions for deficiencies and violations of law, rules and regulations that include:

1. civil fines;
2. directed plans of correction;
3. license revocation or denial of license renewal; and
4. any sanctions allowed under state law or regulation.

B. The department may deny an application for an initial license or a license renewal, or may revoke a license in accordance with the Administrative Procedure Act.

C. The department may deny an initial license, revoke a license or deny a license renewal for any of the following reasons, including, but not limited to:

1. failure to be in compliance with the BHS licensing laws, rules and regulations;

2. failure to be in compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. cruelty or indifference to the welfare of the clients;

5. misappropriation or conversion of the property of the clients;

6. permitting, aiding or abetting the unlawful, illicit or unauthorized use of drugs or alcohol within the provider of a program;

7. documented information of past or present conduct or practices of BHS provider personnel which are detrimental to the welfare of the clients, including but not limited to illegal or criminal activities, or coercion;

8. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. mental or physical abuse, neglect, exploitation or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. illegal or criminal activities;

9. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in Paragraph C.8 above;

10. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical records, client records or provider records;

d. matters under investigation by the department or the Office of the Attorney General; or

e. information submitted for reimbursement from any payment source;

11. knowingly making a false statement or providing false, forged or altered information or documentation to DHH employees or to law enforcement agencies;

12. the use of false, fraudulent or misleading advertising; or

13. the BHS provider, an owner, officer, member, manager, administrator, medical director, managing employee, or clinical supervisor who has pled guilty or nolo contendere to a felony, or is convicted of a felony, as documented by a certified copy of the record of the court, related to:

a. violence, abuse or neglect against a person;

b. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

c. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;

d. the misappropriation of property belonging to another person;

e. a crime of violence;

f. an alcohol or drug offense, unless the offender has:

i. completed his/her sentence, including the terms of probation or parole, at least five years prior to the ownership of or working relationship with the provider; and

ii. been sober for at least the last two years;

g. a firearm or deadly weapon;

h. Medicare or Medicaid fraud; or

i. fraud or misappropriation of federal or state funds;

14. failure to comply with all reporting requirements in a timely manner, as required by the department;

15. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview BHS provider staff or clients;

16. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;

17. failure to allow or refusal to allow access to BHS provider or client records by authorized departmental personnel;

18. bribery, harassment, intimidation or solicitation of any client designed to cause that client to use or retain the services of any particular BHS provider;

19. cessation of business or non-operational status;

20. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

21. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department;

22. failure to maintain accreditation, if accreditation is a federal or state requirement for participation in the program; or

23. failure to uphold client rights that may have resulted or may result in harm, injury or death of a client.

D. Any owner, officer, member, manager, director or administrator of such BHS provider is prohibited from owning, managing, directing or operating another BHS provider for a period of two years from the date of the final disposition of any of the following:

1. license revocation;

2. denial of license renewal, except when due to cessation of business; or

3. the license is surrendered in lieu of adverse action.

E. If the department determines that the health and safety of a client or the community may be at risk, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The department will provide written notification to the BHS provider if the imposition of the action will be immediate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5629. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. The department shall provide written notice to the provider of the following:

1. license denial;

2. license revocation; or

3. license non-renewal or denial of license renewal.

B. The BHS provider has the right to an administrative reconsideration of the license denial, license revocation or license non-renewal.

1. If the BHS provider chooses to request an administrative reconsideration, the request must:

a. be in writing addressed to HSS;

b. be received by HSS within 15 calendar days of the BHS provider's receipt of the notice of the license denial, license revocation or license non-renewal; and

c. include any documentation that demonstrates that the determination was made in error.

2. If a timely request for an administrative reconsideration is received, HSS shall provide the BHS provider with written notification of the date of the administrative reconsideration.

3. The HSS shall conduct the administrative reconsideration. The BHS provider may request to present an oral presentation and be represented by counsel.

4. The HSS shall not consider correction of a deficiency or violation as a basis for the reconsideration.

5. The BHS provider will be notified in writing of the results of the administrative reconsideration.

C. The administrative reconsideration process is not in lieu of the administrative appeals process.

D. The BHS provider has a right to an administrative appeal of the license denial, license revocation or license non-renewal.

1. If the BHS provider chooses to request an administrative appeal, the request must be received:

a. by the DAL or its successor, within 30 days of the BHS provider's receipt of the results of the administrative reconsideration; or

b. within 30 days of the BHS provider's receipt of the notice of the license denial, revocation or non-renewal, if the BHS provider chose to forego its rights to an administrative reconsideration.

2. The provider's request for administrative appeal shall:

a. be in writing;

b. include any documentation that demonstrates that the determination was made in error; and

c. include the basis and specific reasons for the appeal.

3. The DAL shall not consider correction of a violation or a deficiency as a basis for the administrative appeal.

4. If a timely request for an administrative appeal is received by the DAL, the BHS provider shall be allowed to continue to operate and provide services until the DAL issues a final administrative decision, unless the imposition of the revocation or non-renewal is immediate based on the department's determination that the health and safety of a client or the community may be at risk.

E. If a licensed BHS provider has a pending license revocation, and the license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

F. Administrative Hearings of License Denials, Non-Renewals and Revocations

1. If a timely administrative appeal is submitted by the BHS provider, the DAL or its successor, shall conduct the hearing within 90 days of the docketing of the administrative appeal. The DAL may grant one extension, not to exceed 90 days, if good cause is shown.

2. If the final DAL decision is to reverse the license denial, license non-renewal or license revocation, the BHS provider's license will be re-instated upon the payment of any outstanding fees or sanctions fees due to the department.

3. If the final DAL decision is to affirm the license non-renewal or license revocation, the BHS provider shall:

a. discharge and transition any and all clients receiving services according to the provisions of this Chapter; and

b. notify HSS in writing of the secure and confidential location where the client records will be stored and the name, address and phone number of the contact person responsible for the records.

G. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new BHS provider, or the issuance of a provisional license to a licensed BHS provider.

H. Administrative Reconsiderations from the Expiration of a Provisional Initial License or Provisional License

1. A BHS provider with a provisional initial license or a provisional license that expires due to deficiencies cited at the follow-up survey has the right to request an administrative reconsideration and/or an administrative appeal.

2. The BHS provider's request for an administrative reconsideration must:

a. be in writing;

b. be received by the HSS within five days of receipt of the notice of the results of the follow-up survey from the department; and

c. identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

3. Correction of a violation or deficiency after the follow-up survey will not be considered as the basis for the administrative reconsideration or for the administrative appeal.

4. The issue to be decided in the administrative reconsideration and the administrative appeal is whether the deficiencies were properly cited at the follow-up survey.

5. The BHS provider's request for an administrative appeal must:

a. be in writing;

b. be submitted to the DAL within 15 days of receipt of the notice of the results of the follow-up survey from the department; and

c. identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

6. A BHS provider with a provisional initial license or a provisional license that expires under the provisions of this Chapter, shall cease providing services and discharge or transition clients, unless the DAL or successor issues a stay of the expiration.

a. To request a stay, the BHS provider must submit its written application to the DAL at the time the administrative appeal is filed.

b. The DAL shall hold a contradictory hearing on the stay application. If the BHS provider shows that there is no potential harm to its clients, then the DAL shall grant the stay.

I. Administrative Hearing of the Expiration of a Provisional Initial License or Provisional License

1. If the BHS provider submits a timely administrative hearing, the DAL shall conduct the hearing within 90 days of docketing the administrative appeal.

a. The DAL may grant one extension, not to exceed 90 days, if good cause is shown.

b. If the final DAL decision is to remove all disputed deficiencies, the department will reinstate the BHS provider's license upon the payment of any outstanding fees and settlement of any outstanding sanctions due to the department.

c. If the final DAL decision is to uphold the disputed deficiencies and affirm the expiration of the provisional license, the BHS provider shall discharge any and all clients receiving services and comply with the cessation of business requirements in accordance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter C. Organization and Administration

§5631. General Provisions

A. Purpose and Organizational Structure. The BHS provider shall develop and maintain a written statement that clearly defines the purpose and organization of the provider. The statement shall include:

1. the program philosophy;
2. the program goals and objectives;
3. the ages, sex and characteristics of clients accepted for care;
4. the geographical area served;
5. the types of services provided;
6. the admission criteria;
7. the needs, problems, situations or patterns addressed by the BHS provider's program; and
8. the BHS provider's organizational chart which clearly delineates the line of authority.

B. The BHS provider shall provide supervision and services that:

1. conform to the department's rules and regulations;
2. meet the needs of the client as identified and addressed in the client's treatment plan;
3. protect each client's rights; and
4. promote the social and physical well-being and behavioral health of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5633. Governing Body

A. A BHS provider shall have the following:

1. an identifiable governing body with responsibility for and authority over the policies and operations of the BHS provider;
2. documents identifying the governing body's:
   a. members;
   b. contact information for each member;
   c. terms of membership;
   d. officers; and
   e. terms of office for each officer.

B. The governing body of a BHS provider shall:

1. be comprised of one or more persons;
2. hold formal meetings at least twice a year;
3. maintain written minutes of all formal meetings of the governing body; and
4. maintain by-laws specifying frequency of meetings and quorum requirements.

C. The responsibilities of a BHS provider's governing body, include, but are not limited to:

1. ensuring the BHS provider's compliance with all federal, state, local and municipal laws and regulations as applicable;
2. maintaining funding and fiscal resources to ensure the provision of services and compliance with this Chapter;
3. reviewing and approving the BHS provider's annual budget;
4. designating a qualified person to act as administrator, and delegating this person the authority to manage the BHS provider;
5. at least once a year, formulating and reviewing, in consultation with the administrator, the clinical supervisor and/or medical director, written policies concerning:
   a. the BHS provider's philosophy and goals;
   b. current services;
   c. personnel practices and job descriptions; and
   d. fiscal management.
6. evaluating the performance of the administrator at least once a year;
7. meeting with designated representatives of the department whenever required to do so;
8. informing the department, or its designee, prior to initiating any substantial changes in the services provided by the BHS provider; and
9. ensuring statewide criminal background checks are conducted as required in this Chapter and state law.

D. A governing body shall ensure that the BHS provider maintains the following documents:

1. minutes of formal meetings and by-laws of the governing body;
2. documentation of the BHS provider's authority to operate under state law;
3. all leases, contracts and purchases-of-service agreements to which the BHS provider is a party;
4. insurance policies;
5. annual operating budgets;
6. a master list of all the community resources used by the BHS provider;
7. documentation of ownership of the BHS provider;
8. documentation of all accidents, incidents, and abuse/neglect allegations; and
9. daily census log of clients receiving services.

E. Service Agreements. The governing body of a BHS provider shall ensure the following with regards to agreements to provide services for the provider:

1. the agreement for services is in writing;
2. the provider reviews every written agreement at least once a year;
3. the deliverables are being provided as per the agreement;
4. the BHS provider retains full responsibility for all services provided by the agreement;
5. all services provided by the agreement shall:

a. meet the requirements of all laws, rules and regulations applicable to a BHS provider; and

b. be provided only by qualified providers and personnel in accordance with this Chapter;

6. if the agreement is for the provision of direct care services, the written agreement specifies the party responsible for screening, orientation, ongoing training and development of and supervision of the personnel providing services pursuant to the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5635. Policies and Procedures

A. Each BHS provider shall develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that address:

1. the protection of the health, safety, and well-being of each client;

2. the provision of treatment in order for clients to achieve recovery;

3. access to care that is medically necessary;

4. uniform screening for patient placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;

5. operational capability and compliance;

6. delivery of services that are cost-effective and in conformity with current standards of practice;

7. confidentiality and security of client records and files;

8. the prohibition of illegal or coercive inducement, solicitation and kickbacks;

9. client rights;

10. grievance procedures;

11. emergency preparedness;

12. abuse and neglect;

13. incidents and accidents, including medical emergencies;

14. universal precautions and infection control;

15. documentation of services;

16. admission, including screening procedures, emergency care, client orientation, walk-in services or other brief or short-term services provided;

17. transfer and discharge procedures;

18. behavior management;

19. transportation;

20. quality Improvement;

21. medical and nursing services;

22. research or non-traditional treatment approaches and approval thereof, in accordance with federal and state guidelines;

23. the BHS provider's exterior location where smoking, if allowed, may occur;

24. domestic animals, if permitted on premises that, at a minimum, include:

a. required animal vaccinations and updates, as indicated; and

b. management of the animals' care and presence consistent with the goals of the program and clients' needs, including those with allergies;

25. privacy and security of laboratory testing and screenings, if performed on-site;

26. what constitutes the authorized use of force and least restrictive measures by uniformed security, if applicable; and

27. compliance with applicable federal and state laws and regulations.

B. A BHS provider shall develop, implement and comply with written personnel policies that address the following:

1. recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of employees;

2. written job descriptions for each staff position, including volunteers;

3. conducting staff health assessments that are consistent with OPH guidelines and indicate whether, when and how staff have a health assessment;

4. an employee grievance procedure;

5. abuse reporting procedures that require staff to report:

a. any allegations of abuse or mistreatment of clients according to state and federal laws; and

b. any allegations of abuse, neglect, exploitation or misappropriation of a client to DHH.

6. a nondiscrimination policy;

7. the requirement of all employees to report any signs or symptoms of a communicable disease or contagious illness to their supervisor or the clinical supervisor as soon as possible to prevent the disease or illness from spreading to other clients or personnel;

8. procedures to ensure that only qualified personnel are providing care within the scope of the core functions of the provider's services;

9. the governing of staff conduct and procedures for reporting violations of laws, rules, and professional and ethical codes of conduct;

10. the governing of staff organization that pertain to the BHSF provider's purpose, setting and location;

11. procedures to ensure that the staff's credentials are verified, legal and from accredited institutions; and

12. obtaining criminal background checks, ensuring no staff is providing unsupervised direct care prior to obtaining the results of the criminal background check and has procedures addressing the results of the background check.

C. A BHS provider shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter D. Provider Operations§5637.Client Records

A. The BHS provider shall ensure that:

1. a client record is maintained for each client according to current professional standards;

2. policies and procedures regarding confidentiality, maintenance, safeguarding and storage of records are developed and implemented;

3. records are stored in a place or area where safeguards are in place to prevent unauthorized access, loss, and destruction of client records;

4. when electronic health records are used, the most current technologies and practices are used to prevent unauthorized access;

5. records are kept confidential according to federal and state law and regulations;

6. records are maintained at the provider where the client is currently active and for six months after discharge;

7. six months post-discharge, records may be transferred to a centralized location for maintenance;

8. client records are directly and readily accessible to the direct care staff caring for the client;

9. a system of identification and filing is maintained to facilitate the prompt location of the client's record;

10. all record entries are dated, legible and authenticated by the staff person providing the service or treatment, as appropriate to the media;

11. records are disposed of in a manner that protects client confidentiality;

12. a procedure for modifying a client record in accordance with accepted standards of practice is developed, implemented and followed;

13. an employee is designated as responsible for the client records;

14. disclosures are made in accordance with applicable state and federal laws and regulations;

15. client records are maintained at least 6 years from discharge, and for minors, client records are maintained at least 10 years.

B. Contents. The provider shall ensure that a client record, at a minimum, contains the following:

1. the treatment provided to the client;

2. the client's response to the treatment;

3. all pertinent medical, psychological, social and other therapeutic information, including:

a. initial assessment;

b. admission diagnosis;

c. referral information;

d. client information/data such as name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;

e. screenings;

f. medical limitations such as major illnesses, allergies;

g. treatment plan that includes the initial treatment plan plus any updates or revisions;

h. lab work including diagnostic, laboratory and other pertinent information, when indicated;

i. legible written progress notes or equivalent documentation;

j. documentation of the services delivered for each client signed by the client or responsible person for services provided in the home or community;

k. documentation related to incidents;

l. consent forms;

m. physicians' orders;

n. a record of all medicines administered by the BHS provider or self-administered by the client, including medication types, dosages, frequency of administration, route and person who administered each dose;

o. discharge summary; and

p. other pertinent information related to client as appropriate;

4. progress notes that are documented in accordance with professional standards of practice and that:

a. document implementation of the treatment plan and results;

b. document the client's level of participation; and

c. are completed upon delivery of services by the direct care staff to document progress toward stated treatment plan goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5639. Quality Improvement Plan

A. A BHS provider shall develop, implement and maintain a quality improvement (QI) plan that:

1. assures that the provider is in compliance with federal, state, and local laws;

2. meets the needs of the provider's clients;

3. is attaining the goals and objectives established by the provider;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual outcomes and individual satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QI plan shall include:

1. a process for obtaining input from the client, or client's parents or legal guardian, as applicable, at least once a year that may include, but not be limited to:

a. satisfaction surveys conducted by a secure method that maintains the client's privacy;

b. focus groups; and

c. other processes for receiving input regarding the quality of services received;

2. a sample review of client case records on a quarterly basis to ensure that:

a. individual treatment plans are up to date;

b. records are accurate, complete and current;

c. the treatment plans have been developed and implemented as ordered; and

d. the program involves all services and focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors;

3. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients of the BHS provider receiving services, that includes, but is not limited to:

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

4. a process to review and resolve individual client issues that are identified;

5. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

6. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients;

7. a process of evaluation to identify or trigger further opportunities for improvement, such as:

a. identification of individual care and service components;

b. application of performance measures; and

c. continuous use of a method of data collection and evaluation;

8. a methodology for determining the amount of client case records in the quarterly sample review that will involve all services and produce accurate data to guide the provider toward performance improvement.

C. The QI program shall establish and implement an internal evaluation procedure to:

1. collect necessary data to formulate a plan; and

2. hold quarterly committee meetings comprised of at least three individuals who:

a. assess and choose which QI plan activities are necessary and set goals for the quarter;

b. evaluate the activities of the previous quarter; and

c. implement any changes that protect the clients from potential harm or injury.

D. The QIP committee shall:

1. be comprised of at least three persons, one of whom is a LMHP and the others are staff with the proper education and experience to contribute to the committee's purpose; and

2. develop and implement the QI plan.

E. The QI program outcomes shall be documented and reported to the administrator and medical director for action, as necessary, for any identified systemic problems.

F. The BHS provider shall maintain documentation of the most recent 12 months of the QIP plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter E. Personnel

§5641. General Requirements

A. The BHS provider shall maintain an organized professional staff who is accountable to the governing body for the overall responsibility of:

1. the quality of all clinical care provided to clients;

2. the ethical conduct and professional practices of its members;

3. compliance with policies and procedures; and

4. the documented staff organization that pertains to the provider's setting and location.

B. The direct care staff of a BHS provider shall:

1. have the appropriate qualifications to provide the services required by its clients' treatment plans; and

2. not practice beyond the scope of his/her license, certification and/or training.

C. The provider shall ensure that:

1. qualified direct care staff members are present with the clients as necessary to ensure the health, safety and well-being of clients;

2. staff coverage is maintained in consideration of:

a. acuity of the clients being serviced;

b. the time of day;

c. the size, location, physical environment and nature of the provider;

d. the ages and needs of the clients;

e. ensuring the continual safety, protection, direct care and supervision of clients;

3. applicable staffing requirements in this Chapter are maintained;

4. mechanisms are developed for tracking staff attendance and hours worked during operational hours whether onsite or off-site;

5. there is adequate justification for the provider's assigned staffing patterns at any point in time.

D. Criminal Background Checks

1. For any provider that is treating children and/or adolescents, the provider shall either:

a. obtain a criminal background check on all staff that was conducted within 90 days prior to hire or employment; or

b. request a criminal background check on all staff prior to hire or employment in the manner required by R.S. 15:587.1 et seq.

2. For any provider that is treating adults, the provider shall obtain a statewide criminal background check on all unlicensed direct care staff within 90 days prior to hire or employment by an agency authorized by the Office of State Police to conduct criminal background checks. The background check must be conducted within 90 days prior to hire or employment.

3. A provider that hires a contractor to perform work which does not involve any contact with clients is not required to conduct a criminal background check on the contractor if accompanied at all times by a staff person when clients are present in the provider.

E. The provider shall review the Louisiana state nurse aide registry and the Louisiana direct service worker registry to ensure that each unlicensed direct care staff member does not have a negative finding on either registry.

F. Prohibitions

1. The provider is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony involving:

i. abuse or neglect of a person;

ii. an alcohol or drug offense, unless the employee or contractor has:

(a). completed his/her sentence, including probation or parole; and

(b). been sober for at least the last 2 years;

iii. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

iv. misappropriation of property belonging to another person when:

(a). the offense was within the last five years; or

(b). the employee/contractor has not completed his/her sentence, including, if applicable, probation or parole;

v. a crime of violence;

b. has a finding placed on the Louisiana state nurse aide registry or the Louisiana direct service worker registry.

G. Orientation and Training

1. All staff shall receive orientation. All direct care staff shall receive orientation prior to providing direct client care without supervision.

2. All staff shall receive in-service training:

a. at least once a year;

b. that complies with the provider's policies and procedures;

c. that is necessary depending on the needs of the clients; and

d. that is specific to the age of the provider's population.

3. The content of the orientation and in-service training shall include the following:

a. confidentiality in accordance with federal and state laws and regulations;

b. grievance process;

c. fire and disaster plans;

d. emergency medical procedures;

e. organizational structure and reporting relationships;

f. program philosophy;

g. policies and procedures;

h. detecting and mandatory reporting of client abuse, neglect or misappropriation;

i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

j. basic skills required to meet the health needs and challenges of the client;

k. crisis intervention and the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening and verbal and observational methods to prevent emergency safety situations;

l. telephone crisis mitigation for those staff members who provide such services;

m. client's rights;

n. duties and responsibilities of each employee;

o. standards of conduct required by the provider;

p. information on the disease process and expected behaviors of clients;

q. maintaining a clean, healthy and safe environment;

r. infectious diseases and universal precautions;

s. overview of the Louisiana licensing standards for behavioral health service providers; and

t. basic emergency care for accidents and emergencies until emergency medical personnel can arrive at provider.

4. The orientation and in service training shall:

a. be provided only by staff who are qualified by education, training, and experience;

b. include training exercises in which direct care staff members successfully demonstrate in practice the techniques they have learned for managing the delivery of patient care services; and

c. require the direct care staff member to demonstrate competency before providing services to clients.

5. The in-services shall serve as a refresher for subjects covered in orientation or training as indicated through the QI process.

H. Staff Evaluation

1. The provider shall complete an annual performance evaluation of all employees.

2. The provider's performance evaluation procedures for employees who provide direct care to clients shall address the quality and nature of the employee's relationships with clients.

I. The provider shall report violations of laws, rules, and professional and ethical codes of conduct by provider staff and volunteers to the appropriate professional board or licensing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5643. Personnel Qualifications and Responsibilities

A. Professional Staffing Standards. The BHS provider shall abide by the following minimum staffing requirements in addition to the staffing requirements of each specialized program applicable to the provider.

B. A BHS provider shall, at a minimum, have the following staff:

1. a medical director who:

a. is a physician with a current, unrestricted license to practice medicine in the state of Louisiana;

b. has the following assigned responsibilities:

i. ensures that the necessary services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure and staff regarding the medical needs of the clients according to the current standards of medical practice;

iii. directs the specific course of medical treatment for all clients;

iv. reviews reports of all medically related accidents/incidents occurring on the premises and identify hazards to the administrator;

v. develops and implement policies and procedures for the delivery of services;

vii. participates in the development of new programs and modifications; and

viii. periodically reviews services to ensure quality of care;

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. writes the admission and discharge orders;

ii. writes and approves all prescription medication orders;

iii. develops, implements and provides education regarding the protocols for administering prescription and non-prescription medications on-site;

iv. provides consultative and on-call coverage to ensure the health and safety of clients; and

v. collaborates with the client's primary care physician and psychiatrists as needed for continuity of the client's care;

2. an administrator who:

a. has either a bachelor's degree from an accredited college or university or one year of qualifying experience that demonstrates adequate knowledge, experience and expertise in business management;

b. is responsible for the on-site day to day operations of the BHS provider and supervision of the overall BHS provider's operation commensurate with the authority conferred by the governing body; and

c. shall not perform any programmatic duties and/or make clinical decisions unless licensed to do so;

3. with the exception of opioid treatment programs, a clinical supervisor who:

a. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

b. shall be on duty and on call as needed;

c. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

d. shall have the following responsibilities:

i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;

ii. serve as resource person for other professionals counseling persons with behavioral health disorders;

iii. attend and participate in care conferences, treatment planning activities, and discharge planning;

iv. provide oversight and supervision of such activities as recreation, art/music, or vocational education;

v. function as client advocate in treatment decisions;

vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;

vii. provide only those services that are within the person's scope of practice; and

viii. assist the medical director and governing body with the development and implementation of policies and procedures.

C. Other Staffing Requirements. The provider shall abide by the following staffing requirements that are applicable to its provider.

1. Licensed Mental Health Professionals

a. The provider shall maintain a sufficient number of LMHPs to meet the needs of its clients.

b. The LMHP has the following responsibilities:

i. provide direct care to clients utilizing the core competencies of addiction counseling and/or mental health counseling and may serve as primary counselor to specified caseload;

ii. serve as resource person for other professionals in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities, and discharge planning;

iv. provide on-site and direct professional supervision of any unlicensed professional or inexperienced professional;

v. function as the client's advocate in all treatment decisions affecting the client; and

vi. prepare and write notes or other documents related to recovery (e.g. assessment, progress notes, treatment plans, discharge, etc.).

2. Unlicensed Professionals

a. The provider shall maintain a sufficient number of unlicensed professionals (UPs) to meet the needs of its clients.

b. The UP shall:

i. provide direct care to clients and may serve as primary counselor to specified caseload under clinical supervision;

ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities and discharge planning;

iv. function as the client's advocate in all treatment decisions affecting the client; and

v. prepare and write notes or other documents related to recovery (e.g. assessment, progress notes, treatment plans, etc.).

3. Nursing Staff

a. The provider's nursing staff shall provide the nursing care and services under the direction of a registered nurse necessary to meet the needs of the clients.

b. A provider's nurse shall have a valid current nursing license in the state of Louisiana.

c. A provider with clients who are unable to self-administer medication shall have a sufficient number of nurses on staff to meet the needs of its clients.

4. Direct Care Aides

a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients.

b. A provider that provides outpatient services shall use direct care aides as needed.

c. Direct care aides shall meet the following minimum qualifications:

i. has obtained a high school diploma or equivalent;

ii. be at least 18 years old in an adult provider and 21 years old in a provider that treats children and/or adolescents.

d. Direct care aides shall have the following responsibilities:

i. ensure a safe environment for clients;

ii. exercise therapeutic communication skills;

iii. take steps to de-escalate distressed clients;

iv. observe and document client behavior;

v. assist with therapeutic and recreational activities;

vi. monitor clients' physical well-being;

vii. provide input regarding patient progress to the interdisciplinary team;

viii. oversee the activities of the provider when there is no professional staff on duty;

ix. supervise non-routine volunteers and visitors;

x. possess adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed; and

xi. function as client advocate.

5. Volunteers

a. If a BHS provider utilizes volunteers, the provider shall ensure that each volunteer is:

i. screened and supervised to protect clients and staff;

ii. oriented to the provider, job duties, and other pertinent information;

iii. trained to meet requirements of duties assigned;

iv. given a written job description or written agreement;

v. identified as a volunteer;

vi. trained in privacy measures;

vii. required to sign a written confidentiality agreement; and

viii. required to submit to a criminal background check prior to providing direct care.

b. If a BHS provider utilizes student volunteers, it shall ensure that each student volunteer:

i. has current registration with the appropriate Louisiana professional board, when required, and is in good standing at all times;

ii. is actively pursuing a degree in a human service field or professional level licensure or certification at all times;

iii. provides direct client care utilizing the standards developed by the professional board;

iv. provides care only under the direct supervision of the appropriate supervisor; and

v. provides only those services for which the student has been properly trained and deemed competent to perform by the individual designated by the professional board or school to oversee the student's learning in the provider.

c. A volunteer's duties may include:

i. direct care activities only when qualified provider personnel are present;

ii. errands, recreational activities;

iii. individual assistance to support services; and

iv. other assigned duties.

d. The provider shall designate a volunteer coordinator who:

i. has the experience and training to supervise the volunteers and their activities; and

ii. is responsible for selecting, evaluating and supervising the volunteers and their activities.

6. Care Coordinator

a. The provider shall ensure that each care coordinator:

i. has a high school diploma or equivalent;

ii. is at least 18 years old in an adult provider and 21 years old in provider that treats children and/or adolescents; and

iii. has been trained to perform assigned job duties.

D. Multiple Positions. If a BHS provider employs a staff member in more than one position, the provider shall ensure that:

1. the person is qualified to function in both capacities; and

2. one person is able to perform the responsibilities of both jobs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5645. Personnel Records

A. A BHS provider shall maintain a personnel file for each employee and direct care staff member. Each record shall contain:

1. the application for employment and/or resume, including contact information and employment history for the preceding five years, if applicable;

2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;

3. any required medical examinations or health screens;

4. evidence of current applicable credentials/certifications for the position;

5. annual performance evaluations;

6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment;

7. the employee's starting and termination dates;

8. proof of attendance of orientation, training and in-services;

9. results of criminal background checks on all direct care staff;

10. job descriptions and performance expectations;

11. an attestation signed at least once a year by each unlicensed direct care staff member indicating whether he/she has been convicted of or pled guilty or nolo contendere to a crime, other than traffic violations, within the last 12 months; and

12. a written confidentiality agreement signed by the staff at the point of hire and according to the provider's policy.

B. A BHS provider shall retain personnel files for at least three years following termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter F. Admission, Transfer and Discharge

§5647. Admission Requirements

A. A BHS provider shall not refuse admission to any individual on the grounds of race, national origin, ethnicity or disability.

B. A BHS provider shall admit only those individuals whose behavioral health needs, pursuant to the Initial Admission Assessment, can be fully met by the provider.

C. Pre-Admission Requirements

1. Prior to admission, the provider shall either:

a. conduct an initial admission assessment; or

b. obtain a current assessment conducted within the past year that determines the individual's diagnosis and update the assessment to represent the client's current presentation.

2. If the client is disoriented due to psychological or physiological complications or conditions, the initial admission assessment shall be completed as soon as the client is capable of participating in the process.

3. The client shall participate in the assessment process to the extent appropriate.

4. The initial admission assessment shall contain the following:

a. a screening to determine eligibility and appropriateness for admission and referral;

b. a biopsycho-social evaluation that includes:

i. circumstances leading to admission;

ii. past and present behavioral health concerns;

iii. past and present psychiatric and addictive disorders treatment;

iv. significant medical history and current health status;

v. family and social history;

vi. current living situation;

vii. relationships with family of origin, nuclear family, and significant others;

viii. education and vocational training;

ix. employment history and current status;

x. military service history and current status;

xi. legal history and current legal status;

xii. emotional state and behavioral functioning, past and present; and

xiii. strengths, weaknesses, and needs;

c. physical examination or appropriate referral within 72 hours if indicated by the physician, nursing assessment or screening process;

d. drug screening when history is inconclusive or unreliable;

e. appropriate assignment to level of care with referral to other appropriate services as indicated;

f. signature and date by the LMHP; and

g. for residential facilities, diagnostic laboratory tests or appropriate referral as required to prevent spread of contagious/communicable disease, or as indicated by physical examination or nursing assessment.

D. Admission Requirements

1. The client must show symptoms for the need of behavioral health services.

2. A provider shall establish admission requirements that include:

a. availability of appropriate physical accommodations;

b. legal authority or voluntary admission;

c. availability of professionals to provide services needed as indicated by the initial assessment and diagnosis; and

d. written documentation that client and family, if applicable, consents to treatment and understands the diagnosis and level of care.

3. Client/Family Orientation. Each provider shall ensure that a confidential and efficient orientation is provided to the client and the client's family, if applicable, concerning:

a. visitation in a residential facility, if applicable;

b. family involvement;

c. safety;

d. the rules governing individual conduct;

e. authorization to provide treatment;

f. adverse reactions to treatment;

g. the general nature and goals of the program;

h. proposed treatment to include treatment methodology, duration, goals and services;

i. risks and consequences of non-compliance;

j. treatment alternatives;

k. clients rights and responsibilities; and

l. all other pertinent information, including fees and consequences of non-payment of fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5649. Transfer and Discharge Requirements

A. Each provider shall develop, implement and comply with policies and procedures that address:

1. discharge;

2. transition to another level of care; and

3. transfer to another provider.

B. The BHS provider shall ensure that a client is discharged:

1. when the client's treatment goals are achieved, as documented in the client's treatment plan;

2. when the client's issues or treatment needs are not consistent with the services the provider is authorized or able to provide;

3. according to the provider's established written discharge criteria; or

4. when the voluntarily-admitted client, or client's parent or legal guardian, if applicable, requests discharge.

C. Discharge planning shall begin upon admission.

D. Discharge Plan. The provider shall submit a written discharge plan to each client upon discharge or, if unable to submit at discharge, within seven days after discharge. The discharge plan shall provide reasonable protection of continuity of services that includes:

1. the client's transfer or referral to outside resources, continuing care appointments, and crisis intervention assistance;

2. documented attempts to involve family or an alternate support system in the discharge planning process;

3. the client's goals or activities to sustain recovery;

4. signature of the client or, if applicable, the client's parent or guardian;

5. name, dosage and frequency of client's medications ordered at the time of discharge; and

6. the disposition of the client's possessions, funds and/or medications, if applicable.

E. Discharge Summary. The BHS provider shall ensure that each client record contains a written discharge summary that includes:

1. the client's presenting needs and issues identified at the time of admission;

2. the services provided to the client;

3. the provider's assessment of the client's progress towards goals;

4. the circumstances of discharge; and

5. the continuity of care recommended following discharge, supporting documentation and referral or transfer information.

F. When a request for discharge is received or when the client leaves the provider against the provider's advice, the provider shall:

1. have and comply with written procedures for handling discharges and discharge requests;

2. document the circumstances surrounding the leave;

3. complete the discharge summary within 30 days of the client's leaving the program or sooner, if necessary, for continuity of care.

G. Transitions. When a client undergoes a transition to another level of care, the provider shall ensure that:

1. the transition to a different level of care is documented in the client's record by a member of the direct care staff;

2. the client is notified of the transition; and

3. if transitioning to a different provider, the staff contacts the other provider and/or client and documents whether the client is following the recommended continuity of care.

H. Transfer Process

1. If a residential provider decides to transfer a client, the provider shall ensure that there is an agreement with the receiving provider to provide continuity of care based on:

a. the compilation of client data; or

b. the medical history/examination/physician orders, psycho-social assessment, treatment plan, discharge summary and other pertinent information provided upon admission to inpatient or outpatient care.

2. The residential provider responsible for the transfer and discharge of the client shall:

a. request and receive approval from the receiving provider prior to the transfer;

b. notify the receiving provider prior to the arrival of the client of any significant medical and/or psychiatric conditions and complications or any other pertinent information that will be needed to care for the client prior to arrival;

c. transfer all requested client information and documents upon request; and

d. ensure that the client has consented to the transfer.

I. If a client is involuntarily committed to a provider, the provider shall:

1. maintain the care of the client until an appropriate level of care becomes available; and

2. comply with the transfer and discharge requirements in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter G. Services

§5651. Treatment Protocols

A. A BHS provider shall deliver all services according to a written plan that:

1. is age and culturally appropriate for the population served;

2. demonstrates effective communication and coordination;

3. provides utilization of services at the appropriate level of care;

4. is an environment that promotes positive well-being and preserves the client's human dignity; and

5. utilizes evidence-based counseling techniques and practices.

B. The provider shall make available a variety of services, including group and/or individual treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5653. Treatment Plan

A. Each client of the BHS provider shall have a treatment plan linked to the assessment that contains:

1. documented input from the counselor and client within 72 hours after admission to a residential facility, with information from other disciplines added as the client is evaluated and treated;

2. client-specific, measurable goals that are clearly stated in behavioral terms;

3. the treatment modalities to be utilized;

4. realistic and specific expected achievement dates;

5. the strategies and activities to be used to help the client achieve the goals;

6. complete, pertinent information related to the mental, physical, and social needs of the client; and

7. the identification of job classification assigned to carry out the treatment.

B. The BHS provider shall ensure that the treatment plan is in writing and is:

1. developed in collaboration with the client and when appropriate, the client's family and is signed by the client or the client's family, when appropriate;

2. reviewed and revised as required by this Chapter or more frequently as indicated by the client's needs;

3. followed consistently by all staff members;

4. signed by the LMHP or physician responsible for developing the treatment plan; and

5. comprehensible to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5655. Core Services

A. A BHS provider shall provide the following services to its clients when needed:

1. assessment;
2. orientation;
3. treatment;
4. client education;
5. consultation with professionals;
6. counseling services;
7. referral;
8. medication management;
9. rehabilitation services;
10. crisis mitigation.

B. Crisis Mitigation Services

1. The BHS provider's crisis mitigation plan shall:

a. identify steps to take when a client suffers from a medical, psychiatric, medication or relapse crisis; and

b. specify names and phone numbers of staff or organizations to assist clients in crisis.

2. If the provider contracts with another entity to provide crisis mitigation services, the BHS provider shall:

a. have a written contract with the entity providing the crisis mitigation services; and

b. automatically transfer the caller or give directions to reach professional assistance. The client shall receive a call from a qualified individual within 30 minutes.

C. Referral

1. The provider shall provide:

a. appropriate resource information regarding local agencies to client and family, if applicable, upon need or request; and

b. procedures to access vocational services, community services, transitional living services and transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5657. Laboratory Services

A. Each BHS provider that provides medication management and/or addiction treatment services shall:

1. have a written agreement for laboratory services off-site or provide laboratory services on-site;

2. ensure that the laboratory providing the services has current Clinical Laboratories Improvement Amendments (CLIA) certification when necessary;

3. ensure diagnostic laboratory services are available to meet the behavioral health needs of the clients; and

4. maintain responsibility for all laboratory services provided on-site or off-site via agreement.

B. If collection is performed on-site, the provider shall develop, implement and comply with written policies and procedures for the collection of specimens in accordance with current standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5659. Medications

A. A BHS provider that stores stock medications of scheduled controlled dangerous substances shall maintain:

1. a site-specific Louisiana controlled dangerous substance license in accordance with the Louisiana Uniform Controlled Dangerous Substance Act; and

2. a United States Drug Enforcement Administration controlled substance registration for the provider in accordance with title 21 of the *United States Code*.

B. The provider, when applicable, shall develop, implement and comply with written policies and procedures that govern:

1. the safe administration and handling of all prescription and nonprescription medications;

2. identification of medications being brought into the premises when the provider is responsible for administering medications;

3. the storage, dispensing, if applicable, and recording and control of all medications;

4. The self-administration of all medications, that includes:

a. age limitations for self-administration;

b. order from the authorized licensed prescriber;

c. parental consent, if applicable; and

d. the manner in which the client is monitored by staff to ensure medication is taken as prescribed in the treatment plan;

5. the disposal of all discontinued and/or expired medications and containers with worn, illegible or missing labels in accordance with state and federal law and regulations;

6. the use of prescription medications including:

a. when medication is administered and monitoring of the effectiveness of the medication administered;

b. a procedure to inform clients, staff, and where appropriate, client's parent(s) or legal guardian(s) of each medication's anticipated results, the potential benefits and side-effects as well as the potential adverse reaction that could result from not taking the medication as prescribed;

c. involving clients and, when appropriate, their parent(s) or legal guardian(s) in decisions concerning medication; and

d. staff training to ensure the recognition of the potential side effects of the medication;

7. recording of medication errors and adverse drug reactions and reporting them to the client's physician or authorized prescriber;

8. the reporting of and steps to be taken to resolve discrepancies in inventory, misuse and abuse of controlled dangerous substances in accordance with federal and state law; and

9. reconciliation of all controlled dangerous substances to guard against diversion.

C. The provider shall ensure that:

1. medications are either self-administered or administered by qualified persons according to state law;

2. any medication administered to a client for therapeutic and medical purposes is administered according to the order of an authorized licensed prescriber;

3. all medications are kept in a locked illuminated clean cabinet, closet or room under proper temperature controls;

4. all controlled dangerous substances shall be kept separately from other medications in a locked cabinet or compartment accessible only to individuals authorized to administer medications;

5. current and accurate records are maintained on the receipt and disposition of all scheduled drugs;

6. schedule II, III and IV of the provider's controlled dangerous substances are reconciled at least twice a day by different shifts of staff authorized to administer controlled dangerous substances;

7. medications are administered only upon receipt of written orders by paper, facsimile, or electronic transmission, or verbal orders from an authorized licensed prescriber;

8. all verbal orders are signed by the authorized licensed prescriber within 10 days;

9. medications that require refrigeration are stored in a refrigerator or refrigeration unit separate from food, beverages, blood, and laboratory specimens;

10. all prescription medications are labeled to identify:

a. the client's full name;

b. the name of the medication;

c. dosage;

d. quantity and date dispensed;

e. directions for taking the medication;

f. required accessory and cautionary statements;

g. prescriber's name; and

h. the expiration date;

11. medication errors, adverse drug reactions, and interactions with other medications, food or beverages taken

by the client are immediately reported to the medical director with an entry in the client's record; and

12. discrepancies in inventory of controlled dangerous substances are reported to the pharmacist.

D. BHS Providers that Dispense Medications

1. If the BHS provider dispenses medications to its clients, the provider shall:

a. provide pharmaceutical services on-site at the center; or

b. have a written agreement with a pharmaceutical provider to dispense the medications.

2. The provider shall ensure that all compounding, packaging, and dispensing of medications is:

a. accomplished in accordance with Louisiana law and Board of Pharmacy regulations; and

b. performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter H. Client Rights

§5661. Client Rights

A. The BHS provider shall develop, implement and comply with policies and procedures that:

1. protect its client's rights;

2. respond to questions and grievances pertaining to these rights;

3. ensure compliance with client's rights enumerated in La. R.S. 28:171; and

4. ensure compliance with minor's rights enumerated in the *Louisiana Children's Code* article 1409.

B. A BHS provider's client and, if applicable, the client's parent(s) or legal guardian, have the following rights:

1. to be informed of the client's rights and responsibilities at the time or shortly after admission;

2. to have a family member, chosen representative and/or his or her own physician notified of admission to the BHS provider at the request of the client;

3. to receive treatment and medical services without discrimination based on race, age, religion, national origin, gender, sexual orientation, or disability;

4. to maintain the personal dignity of each client;

5. to be free from abuse, neglect, exploitation and harassment;

6. to receive care in a safe setting;

7. to receive the services of a translator or interpreter, if applicable, to facilitate communication between the client and the staff;

8. to be informed of the client's own health status and to participate in the development, implementation and updating of the client's treatment plan;

9. to make informed decisions regarding the client's care by the client or the client's parent or guardian, if applicable, in accordance with federal and state laws and regulations;

10. to participate or refuse to participate in experimental research when the client gives informed, written consent to such participation, or when a client's parent or legal guardian provides such consent, when applicable, in accordance with federal and state laws and regulations;

11. for clients in residential facilities, to consult freely and privately with the client's legal counsel or to contact an attorney at any reasonable time;

12. to be informed, in writing, of the policies and procedures for filing a grievance and their review and resolution;

13. to submit complaints or grievances without fear of reprisal;

14. for clients in residential facilities, to possess and use personal money and belongings, including personal clothing, subject to reasonable rules and restrictions imposed by the BHS provider;

15. for clients in residential facilities, to visit or be visited by family and friends subject to reasonable rules imposed by the provider and to any specific restrictions and reasons therefor documented in the client's treatment plan;

16. to have the client's information and medical records, including all computerized medical information, kept confidential in accordance with federal and state statutes and rules/regulations;

17. for clients in residential facilities, access to indoor and outdoor recreational and leisure opportunities;

18. for clients in residential facilities, to attend or refuse to attend religious services in accordance with his/her faith;

19. to be given a copy of the program's rules and regulations upon admission;

20. to receive treatment in the least restrictive environment that meets the client's needs;

21. to not be restrained or secluded in violation of federal and state law, rules and regulations;

22. to be informed in advance of all estimated charges and any limitations on the length of services at the time of admission or shortly thereafter;

23. to receive an explanation of treatment or rights while in treatment;

24. to be informed of the:

a. nature and purpose of any services rendered;

b. the title of personnel providing that service;

c. the risks, benefits, and side effects of all proposed treatment and medications;

d. the probable health and mental health consequences of refusing treatment; and

e. other available treatments which may be appropriate;

25. to accept or refuse all or part of treatment, unless prohibited by court order or a physician deems the client to be a danger to self or others or gravely disabled;

26. for children and adolescents in residential BH facilities, to access appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning; and

27. to contact the department at any reasonable time.

C. All clients have the right to obtain a copy of these rights, including the address and phone number of the department, at any time.

D. The residential or outpatient clinic provider shall:

1. post a copy of the clients' rights on the premises that is accessible to all clients; and

2. give a copy of the clients' rights to each client upon admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5663. Grievances

A. The provider shall develop, implement and comply with a written grievance procedure for clients designed to allow clients to submit a grievance without fear of retaliation. The procedure shall include, but not be limited to:

1. a procedure for filing a grievance;
2. a time line for responding to the grievance;
3. a method for responding to a grievance; and
4. the staff's responsibilities for addressing grievances.

B. The provider shall ensure that:

1. the client and, if applicable, the client's parent(s) or legal guardian(s), is aware of and understands the grievance procedure; and
2. all grievances are addressed and resolved to the best of the provider's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter I. Physical Environment

§5665. Exterior Space Requirements

A. The provider shall maintain its exterior areas that are accessible to the clients, including the grounds and structures on the ground, in good repair and free from any reasonably foreseeable hazard to health or safety.

B. The provider shall ensure the following:

1. garbage and rubbish stored outside are secured in noncombustible, covered containers and are removed on a regular basis;
2. trash collection receptacles and incinerators are separate from recreation areas and located as to avoid being a nuisance;
3. unsafe areas, including but not limited to steep grades, open pits, swimming pools, high voltage boosters or high speed roads, have safeguards in place to protect clients from potential hazards;
4. fences that are in place are in good repair;
5. exterior areas are well lit at night; and
6. the provider has appropriate signage that indicates the provider's:
   a. legal or trade name;
   b. address;
   c. hours of operation; and
   d. telephone number(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5667. Interior Space for Residential Facilities and Outpatient Clinics

A. The BHS provider that provides services on-site shall:

1. have a physical environment that protects the health, safety and security of the clients in consideration of its clients' conditions and abilities;
2. have routine maintenance and cleaning programs in all areas of the provider;
3. be well-lit, clean, and ventilated;
4. maintain its physical environment, including, but not limited to, all equipment, fixtures, plumbing, electrical, furnishings, doors and windows, in good order and safe condition in accordance with manufacturer's recommendations; and
5. maintain heating, ventilation and cooling systems in good order and safe condition to ensure a comfortable environment.

B. The provider shall have designated space for the secure storage of the staff's personal belongings.

C. Furnishings. The BHS provider shall ensure that the provider's furnishings for all living and treatment areas are designed to suit the size and capabilities of the clients and are clean.

D. Medication Storage and Preparation. The provider shall have an area for medication preparation and storage that meets one of the following:

1. a medication room that contains a work counter, sink, refrigerator, locked storage for controlled dangerous substances and is at least 50 square feet; or
2. a self-contained medication distribution unit located in the staff work area that is in a clean workroom, alcove or other space convenient for the staff and that has convenient access to a hand washing station.

E. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from the client living and/or treatment areas that serves as an administrative office for records, secretarial work and bookkeeping.
2. The provider shall have a designated space(s) to allow for private and group discussions and counseling sessions that safely accommodates the clients being served.

F. Smoking. The provider shall prohibit smoking in the interior of its licensed space.

G. Bathrooms

1. There shall be at least one bathroom for use by clients and staff that shall contain:
   a. a lavatory with:
      i. paper towels or an automatic dryer;
      ii. a soap dispenser with soap for individual use; and
      iii. a wash basin with hot and cold running water delivered through a mixing faucet;
   b. toilet(s):
      i. with an adequate supply of toilet paper;
      ii. with elongated bowls with open front seat(s); and
      iii. that allow for individual privacy;
   c. other furnishings necessary to meet the clients' basic hygienic needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5669. Interior Space for Residential Facilities

A. The provider shall evaluate each client's physical, emotional and medical needs and the physical environment of the facility in order to ensure the safety and well-being of all admitted clients.

B. Common Area. The facility's physical environment shall have a designated space accessible to the clients:

1. to be used for group meetings, dining, visitation, leisure and recreational activities;
2. that is at least 25 square feet per client and no less than 150 square feet, exclusive of bedrooms or sleeping

areas, bathrooms, areas restricted to staff, laundry rooms and office areas; and

3. that contains a sufficient number of tables and chairs for eating meals.

C. The facility's physical environment shall have a designated room(s) or area(s) to allow for private and group discussions and counseling sessions that:

1. safely accommodates the clients being served;

2. has adequate space to meet the client's needs in the therapeutic process; and

3. is exclusive of bedrooms, bathrooms and common areas.

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. contains at least 80 square feet for single bedrooms, exclusive of fixed cabinets, fixtures and equipment;

2. contains at least 60 square feet per bed for multi-bedrooms, exclusive of fixed cabinets, fixtures, and equipment;

3. has at least a 7 1/2 foot ceiling height over the required area except in a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space;

4. has at least 2 foot minimum clearance at the foot of each bed; and

5. contains no more than four beds:

a. exception. Providers licensed as substance abuse/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been approved by DHH. This exception applies only to the currently licensed physical location;

6. has at least three feet between beds;

7. has designated storage space for the client's:

a. clothes;

b. toiletries; and

c. personal belongings;

8. has a covered window that leads directly to the outside of the building;

9. has sheets, pillow, bedspread and blankets for each client that are:

a. in good repair;

b. systematically removed from use when no longer usable;

c. clean; and

d. provided as needed or when requested by the client unless the request is unreasonable;

10. has room above the uppermost mattress of any bed to allow the occupant to sit up;

11. contains a bed(s) that:

a. is longer than the client is tall;

b. is no less than 30 inches wide;

c. is of solid construction;

d. has a clean, comfortable, nontoxic fire retardant mattress; and

e. is appropriate to the size and age of the client.

E. The provider shall:

1. prohibit any client over the age of five years to occupy a bedroom with a member of the opposite sex who is not in the client's immediate family;

2. require separate bedrooms and bathrooms for adults, and children/adolescents, except in the Mothers with Dependent Children Program, and for males and females;

3. prohibit adults and children/adolescents from sharing the same space, except in the Mothers with Dependent Children Program;

4. require sight and sound barriers between adult area/wing and the adolescent area/wing;

5. for facilities with child/adolescent clients, ensure that the age of clients sharing bedroom space is not greater than four years in difference unless contraindicated based on diagnosis, the treatment plan or the behavioral health assessment of the client;

6. ensure that each client has his/her own bed;

7. prohibit mobile homes from being used as client sleeping areas;

8. prohibit bunk beds in the following programs:

a. Clinically Managed Residential Detoxification (ASAM Level III.2D);

b. Clinically Managed High Intensity Residential Program (ASAM Level III.5);

c. Medically Monitored Intensive Residential Treatment (ASAM Level III.7); and

d. Medically Monitored Residential Detoxification (ASAM Level III.7D).

F. Bathrooms

1. A provider shall have the following for use by the clients located within the provider:

a. a lavatory with:

i. paper towels or an automatic dryer;

ii. a soap dispenser with soap for individual use;

iii. a wash basin with hot and cold running water delivered through a mixing faucet;

b. tubs and/or showers that:

i. have hot and cold water delivered through a mixing faucet;

ii. have slip proof surfaces; and

iii. allow for individual privacy;

c. toilets:

i. with an adequate supply of toilet paper;

ii. with elongated bowls with open front seats; and

iii. that allow for individual privacy;

d. shatterproof mirrors secured to the walls at convenient heights;

e. other furnishings necessary to meet the clients' basic hygienic needs.

2. The provider shall have the ratio of lavatories, toilets, tubs and/or showers to clients required by the Louisiana State Sanitary Code, Part XIX.

3. A provider shall have at least one separate toilet, lavatory, and bathing facility for the staff located within the provider.

4. In a multi-level facility, there shall be at least one a full bathroom with bathing facility reserved for client use on each client floor.

5. Each bathroom shall be located so that it opens into a hallway, common area or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

6. The provider shall ensure that each client has personal hygiene items, such as a toothbrush, toothpaste, shampoo, and soap as needed.

G. Kitchen

1. If a BHS provider prepares meals on-site, the BHS provider shall have a full service kitchen that:

a. includes a cooktop, oven, refrigerator, freezer, hand washing station, storage and space for meal preparation;

b. is inspected and approved annually by OPH;

c. has the equipment necessary for the preparation, serving, storage and clean-up of all meals regularly served to all of the clients and staff; and

d. contains trash containers covered and made of metal or United Laboratories-approved plastic;

2. A BHS provider that does not prepare meals on-site shall have a nourishment station or a kitchenette, that includes:

a. a sink;

b. a work counter;

c. a refrigerator;

d. storage cabinets;

e. equipment for preparing hot and cold nourishments between scheduled meals; and

f. space for trays and dishes used for nonscheduled meal service.

H. Laundry. The provider shall have a laundry space complete with a ratio of 1:20 washers and dryers to meet the needs of the clients.

I. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

J. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

K. The provider shall ensure that outside doors and windows prohibit an outsider from gaining unauthorized ingress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter J. Safety and Emergency Preparedness

§5671. Safety Provisions for Outpatient Clinics and Residential Facilities

A. The provider shall provide additional supervision when necessary to provide for the safety of all individuals.

B. The provider shall:

1. prohibit weapons of any kind on-site unless possessed by security or law enforcement official or hired security while in uniform and on official business;

2. ensure that its equipment, furnishings, accessories and any other items that are in a state of disrepair or defects are removed and inaccessible until replaced or repaired;

3. ensure that all poisonous, toxic and flammable materials are:

a. maintained in appropriate containers and labeled as to the contents;

b. securely stored in a separate and locked storage area that is inaccessible to clients;

c. maintained only as necessary; and

d. are used in such a manner as to ensure the safety of clients, staff and visitors;

4. ensure that supervision and training is provided to any staff member or client exposed to or that may come in contact with potentially harmful materials such as cleaning solvents and/or detergents;

5. ensure that a first aid kit is available in the provider and in all vehicles used to transport clients.

C. Required Inspections. The provider shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations.

D. The provider shall have an on-going safety program in any facility where clients, staff and others may be, that includes:

1. continuous inspection of the provider for possible hazards;

2. continuous monitoring of safety equipment and maintenance or repair when needed;

3. investigation and documentation of all accidents or emergencies; and

4. fire control and evacuation planning with documentation of all emergency drills.

E. Required BHS Provider Reporting. The provider shall report the following incidents in writing to HSS on the HSS approved form within 24 hours of discovery:

1. any disaster or emergency or other unexpected event that causes significant disruption to program operations and an inability to provide services for greater than 24 hours;

2. any death or serious injury of a client that:

a. may potentially be related to program activities; or

b. at the time of his/her death or serious injury, was on-site at the BHS provider's premises or a resident of the provider's facility; and

3. allegations of client abuse, neglect and exploitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5673. Infection Control

A. The provider shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases.

B. The provider shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with OPH guidelines;

2. monitoring of:

a. the spread of infectious disease;

b. hand washing;

c. staff and client education; and

d. incidents of specific infections in accordance with OPH guidelines;

3. corrective actions; and

4. a designated infection control coordinator who:

a. develops and implements policies and procedures related to infection control; and

b. has training and/or experience in infection control;

5. universal precautions; and

6. strict adherence to all sanitation requirements.

C. The provider shall maintain a clean and sanitary environment and shall ensure that:

1. supplies and equipment are available to staff;

2. there is consistent and constant monitoring and cleaning of all areas of the provider;

3. the methods used for cleaning, sanitizing, handling and storing of all supplies and equipment prevent the transmission of infection;

4. directions are posted for sanitizing kitchen, bathroom and laundry areas; and

5. food and waste are stored, handled, and removed in a way that will not spread disease, cause odor, or provide a breeding place for pests.

D. The provider may enter into a written contract for housekeeping services necessary to maintain a clean and neat environment.

E. The provider shall have an effective pest control plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5675. Emergency Preparedness

A. The BHS provider shall have a written emergency preparedness plan:

1. to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster;

2. to manage the consequences of all disasters or emergencies that disrupt the provider's ability to render care and treatment, or threaten the lives or safety of the clients; and

3. that is prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP).

B. The residential facility or outpatient clinic provider shall:

1. post floor plans with exit diagrams describing how to clear the building safely and in a timely manner at all times;

2. post emergency numbers by all phones;

3. have a separate floor plan or diagram with designated safe zones or sheltering areas for non-fire emergencies; and

4. train its employees in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

C. The residential BHS provider's emergency preparedness plan shall include, at a minimum:

1. in the event of an emergency, an assessment of all clients to determine the clients:

a. who continue to require services and should remain in the care of the provider; or

b. who may be discharged to receive services from another provider;

2. the determination as to when the facility will shelter in place and when the facility will evacuate for a disaster or emergency and the conditions that guide these determinations in accordance with local or parish OHSEP;

3. provisions for when the provider shelters-in-place that include:

a. the decision to take this action is made after reviewing all available and required information on the emergency/disaster, the provider, the provider's surroundings, and consultation with the local or parish OHSEP;

b. provisions for seven days of necessary supplies to be provided by the provider prior to the emergency, including drinking water or fluids and non-perishable food; and

c. the delivery of essential services to each client;

4. provisions for when the provider evacuates with clients:

a. the delivery of essential provisions and services to each client, whether the client is in a shelter or other location;

b. the provider's method of notifying the client's family or caregiver, including:

i. the date and approximate time that the provider or client is evacuating;

ii. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and

iii. a telephone number that the family or responsible representative may call for information regarding the client's evacuation;

c. provisions for ensuring that supplies, medications, clothing and a copy of the treatment plan are sent with the client, if the client is evacuated;

d. the procedure or methods that will be used to ensure that identification accompanies the client. The identification shall include the following information:

i. current and active diagnosis;

ii. all medication, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions; and

v. next of kin, including contact information;

e. transportation or arrangements for transportation for an evacuation that is adequate for the current census;

5. provisions for staff to maintain continuity of care during an emergency; and

6. staff distribution and assignment of responsibilities and functions during an emergency.

D. The outpatient clinic's emergency preparedness plan shall include, at a minimum:

1. in the event of an emergency or disaster, an assessment of all clients to determine the clients:

a. who continue to require services and should remain in the care of the provider; or

b. who may be discharged to receive services from another provider;

2. a plan for each client to continue to receive needed services during a disaster or emergency either by the provider or referral to another program; and

3. the efforts to locate clients after an emergency or disaster and determine the need for continued services and/or referral to other programs.

E. The provider shall:

1. follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency;

2. if the state, parish or local OHSEP orders a mandatory evacuation of the parish or the area in which the agency is serving, ensure that all clients are evacuated according to the provider's emergency preparedness plan;

3. review and update its emergency preparedness plan at least once a year;

4. cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and provide information as requested;

5. monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials;

6. upon request by the department, submit a copy of its emergency preparedness plan for review;

7. upon request by the department, submit a written summary attesting how the emergency plan was followed and executed. The summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths;

8. accept responsibility for the health and well-being of all clients that shelter with the provider before, during, and after the emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5677. Inactivation of License due to a Declared Disaster or Emergency

A. A licensed BHS provider located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued, may seek to inactivate its license for a period not to exceed one year, provided that the provider:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the BHS provider has experienced an interruption in the provisions of services and an inability to resume services as a result of events that are the subject of such executive order or proclamation of emergency or;

b. the BHS provider intends to resume operation as a BHS provider in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

e. lists the clients and the location of the discharged or transferred clients;

2. submits documentation of the provider's interruption in services and inability to resume services as a result of the emergency or disaster;

3. resumes operating as a BHS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state statute;

4. continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

5. continues to submit required documentation and information to the department.

B. Upon receiving a completed request to inactivate a BHS provider license, the department may issue a notice of inactivation of license to the BHS provider.

C. In order to obtain license reinstatement, a BHS provider with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening that includes:

a. the anticipated date of opening, which is within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state statute;

b. a request to schedule a licensing survey; and

c. a completed licensing application with appropriate licensing fees and other required documents, if applicable;

2. submit written approvals for occupancy from OSFM and OPH;

D. Upon receiving a completed written request to reinstate a BHS provider license, the department shall conduct a licensing survey.

E. If the BHS provider meets the requirements for licensure and the requirements under this subsection, the department shall issue a notice of reinstatement of the BHS provider license.

F. During the period of inactivation, the department prohibits change of ownership of the provider.

G. The provisions of this Section shall not apply to a BHS provider which has voluntarily surrendered its license.

H. Failure to request inactive status when the license becomes nonoperational due to a disaster or emergency and/or failure to comply with any of the provisions of this subsection shall be deemed a voluntary surrender of the BHS provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter K. Additional Requirements for Children/Adolescent Programs

NOTE: In addition to the requirements applicable to all Behavioral Health Service providers, programs that treat children and/or adolescents must meet the applicable requirements below.

§5679. General Provisions

A. The BHS provider that provides services to children and/or adolescents shall:

1. provide program lectures and written materials to the clients that are age-appropriate and commensurate with their education and skill-level;

2. involve the client's family or an alternate support system in the process or document why this is not appropriate;

3. prohibit staff from:

a. providing, distributing or facilitating access to tobacco products, alcohol or illegal drugs; and

b. using tobacco products in the presence of adolescent clients;

4. prohibit clients from using tobacco products on the program site or during structured program activities;

5. address the special needs of its clients and comply with all applicable standards, laws and protocols to protect their rights;

6. develop and implement policies and procedures for obtaining consent in accordance with state statutes; and

7. prohibit adults and children/adolescents from attending the same group counseling sessions and activities unless it is therapeutically indicated.

B. Staffing

1. All direct care employees shall have training in adolescent development, family systems, adolescent psychopathology and mental health, substance use in adolescents, and adolescent socialization issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5681. Residential Programs for Children and/or Adolescents

A. Staffing

1. While the clients are on-site, the staff shall:

a. directly supervise and be readily available within hearing distance of the clients at all times; and

b. conduct visual checks, including bed checks, at least once every hour, or more frequently as indicated in the treatment plan.

2. The clients who are off-site but under the responsibility of the provider shall be within eyesight of the staff at all times. While off-site, there shall be a ratio of one staff member to five clients.

B. Educational Resources. The provider shall provide a Department of Education-approved opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless the treatment occurs during school vacation.

C. Family Communications. The provider shall allow regular communication between a client and the client's family and shall not arbitrarily restrict any communications without clear, written, individualized clinical justification documented in the client record.

D. Recreational Space. Clients shall have access to safe, suitable outdoor recreational space and age appropriate equipment that is located, installed and maintained to ensure the safety of the clients.

E. The provider shall provide a tobacco cessation program to assist client's with nicotine dependency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter L. Additional Requirements for Mental Health Programs

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides mental health services must meet the requirements of Subchapter L.

§5683. Staffing Requirements

A. Medical Director. The provider with a mental health program shall ensure that its medical director:

1. is a physician with two years of qualifying experience in treating psychiatric disorders; or

2. is a board-certified psychiatrist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5685. Psychosocial Rehabilitation Services

A. The provider that provides psychosocial rehabilitation services (PSR) shall:

1. provide PSR either individually or in a group setting;

2. provide services in community locations where the client lives, works, attends school and/or socializes in addition to or instead of at the licensed entity;

3. assist the client in developing social and interpersonal skills to:

a. increase community tenure;

b. enhance personal relationships;

c. establish support networks;

d. increase community awareness; and

e. develop coping strategies and effective functioning in the individual's social environment;

4. assist the client with developing daily living skills to improve self-management of the negative effects of psychiatric or emotional symptoms that interfere with a person's daily living;

5. implement learned skills so the client can remain in a natural community location and achieve developmentally appropriate functioning; and

6. assist the client with effectively responding to or avoiding identified precursors or triggers that result in functional impairments.

B. Staffing. The provider shall ensure that:

1. the unlicensed professionals providing PSR receive regularly scheduled clinical supervision from an LMHP;

2. The size of group therapy does not exceed 15 adults or 8 adolescents or children;

3. its staff providing PSR services:

a. is at least 18 years old;

b. has a high school diploma or equivalent; and

c. is at least three years older than any individual served under the age of 18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5687. Crisis Intervention

A. Crisis intervention services may occur in a variety of locations including a health care provider or the community.

B. The provider shall ensure that:

1. a preliminary screening of risk, mental status and stability and the need for further evaluation or other mental health services is conducted by an UP that:

a. includes contact with the client, family members or other collateral sources with pertinent information; and

b. includes a referral to other alternative mental health services at an appropriate level if necessary;

2. an assessment of risk, mental status and psychiatric stability is conducted by a LMHP.

C. Staffing

1. Unlicensed Professionals

a. Unlicensed professionals (UPs) shall:

i.be at least 20 years old and be at least three years older than a client under the age of 18; and

ii. have either:

(a). an associate's degree in social work, counseling, psychology or a related human services field;

(b). two years of course work in a human services field; or

(c). two years of qualifying experience working with clients who have behavioral health disorders.

b. The responsibilities of the UP include:

i. performing the preliminary screening;

ii. assisting the program's LMHP in conducting the assessment;

iii. developing and implementing an individualized written crisis plan from the assessment that provides procedures to reduce the risks of harm to the client and others as well as follow-up procedures;

iv. consulting with physician or the program's LMHP when necessary;

v. providing short term crisis intervention, including crisis resolution and debriefing with the client;

vi. contacting family members when necessary;

vii. following up with the client and as necessary, with family members and/or caretaker.

2. Licensed Mental Health Professionals

a. The licensed mental health professional (LMHP) shall have experience in administering crisis intervention techniques that work to minimize the risk of harm to self or others.

b. The responsibilities of the LMHP are:

i. to conduct the assessment of risk, mental status and medical stability;

ii. to be available for consultation and support; and

iii. to supervise the development and implementation of each crisis plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5689. Community Psychiatric Support and Treatment

A. The provider that provides community psychiatric support and treatment (CPST) services shall:

1. provide services in community locations where the client lives, works, attends school and/or socializes in addition to or instead of at the licensed entity;

2. provide CPST services with the client present;

3. provide services to minimize the negative effects of the symptoms, emotional disturbances or associated environmental stressors which interfere with the client's daily living;

4. provide individual supportive counseling, solution-focused interventions, emotional and behavioral management and problem behavior analysis with the client;

5. participates in and utilizes strengths-based planning and treatments, that includes identifying strengths and needs, resources, natural supports and developing goals and objectives to address functional deficits associated with the client's mental illness; and

6. provides restoration, rehabilitation and support to develop skills to locate, rent and keep a home;

B. Staffing Requirements

1. Unlicensed Professionals Providing CPST Services

a. The program's UPs that provide CPST, except counseling, shall have one of the following:

i. a bachelor's degree in social work, counseling, psychology or a related human services field;

ii. four years of equivalent education in a human service field; or

iii. four years of qualifying experience working with clients who have behavioral health disorders.

b. The program's UPs that provide counseling services shall have a master's degree in social work, counseling, psychology or a related human services field.

c. The responsibilities of the UPs, when providing CPST services include:

i. assisting the client with effectively responding to or avoiding identified precursors or triggers that would risk the client remaining in a natural community location;

ii. assisting in the development of daily living skills specific to managing a home;

iii. assisting the client and family members to identify strategies or treatment options associated with the client's mental illness.

2. Licensed Mental Health Professionals

a. The LMHP shall have experience in CPST services.

b. The LMHP is responsible for providing clinical supervision of the CPST staff.

3. The provider shall ensure that the direct care staff's caseload size:

a. is based on the needs of the clients and their families with emphasis on successful outcomes and individual satisfaction; and

b. meets the needs identified in the individual treatment plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5691. Behavioral Health Service Providers with a Mental Health Program that Provide Services Only in the Home and Community

A. The BHS provider with only a home and community-based mental health program shall notify HSS of the parishes in the state of Louisiana in which it will provide services. The parishes shall be contiguous.

B. Business Office. The provider offering behavioral health services only in the home or community shall have a business location that:

1. is part of the licensed location of the BHS provider;

2. is located in a parish where the provider offers services;

3. has at least one employee on duty in the business office during hours of operation listed on the approved license application;

4. stores the administrative files, including governing body documents, contracts to which the provider is a party, insurance policies, budgets and audit reports, personnel files, client records, policies and procedures, and other files or documents the BHS provider is required to maintain; and

5. is not located in an occupied personal residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter M. Additional Requirements for Substance Abuse/Addiction Treatment Programs

§5693. General Requirements

A. The BHS provider shall provide, either directly or through referral:

1. access to HIV counseling and testing services;

2. access to testing for pregnancy, tuberculosis and sexually transmitted diseases; and

3. appropriate follow-up referral and care.

B. Staffing

1. Medical Director

a. The provider shall ensure that its medical director is a licensed physician who:

i. is an addictionologist; or

ii. meets all of the following:

(a). is board-eligible or board-certified;

(b). has two years of qualifying experience in treating addictive disorders; and

(c). maintains a consulting relationship with an addictionologist.

b. A PA, APRN or NP may perform duties designated by a physician or is in collaborative practice with a physician.

2. LMHPs. The LMHP providing addiction treatment services shall have documented credentials, experience and/or training in working with clients who have addictive disorders.

3. UPs. An UP providing addiction treatment services shall meet one of the following qualifications:

a. a master's-prepared behavioral health professional that has not obtained full licensure privileges and is participating in ongoing professional supervision. When working in addiction treatment settings, the master's prepared UP shall be supervised by a LMHP who meets the requirements of this Section;

b. be a registered addiction counselor;

c. be a certified addiction counselor; or

d. be a counselor in training (CIT) that is registered with ADRA and is currently participating in a supervisory relationship with a ADRA-registered certified clinical supervisor (CCS).

C. Policies and Procedures. The BHS provider shall have a policy and procedure that addresses drug screen tests and collections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5695. Addiction Outpatient Treatment Program (ASAM Level I)

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level I into this program;

2. provide fewer than nine contact hours per week for adults and fewer than six hours per week for children/adolescents; and

3. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 90 days.

B. Staffing. The provider shall ensure that:

1. there is a physician on site and on call as needed for the management of psychiatric and medical needs;

2. there is a clinical supervisor available on site for supervision as needed, and available on call at all times;

3. there is at least one LMHP or UP on-site when clinical services are being provided;

4. each UP's caseload does not exceed 1:50 active clients; and

5. there is one nurse per 200 clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5697. Intensive Outpatient Treatment Programs (ASAM Level II.1)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level II.1 into this program;

2. maintain a minimum of 9 contact hours per week for adults, at a minimum of three days per week, with a maximum of 19 hours per week;

3. maintain a minimum of 6 hours per week for children/adolescents, at a minimum of three days per week, with a maximum of 19 hours per week; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

B. Staffing. The provider shall ensure that:

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP or UP on site when clinical services are being provided;

4. each UP caseload does not exceed 1:25 active clients; and

5. there is one nurse for every 200 clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5699. Ambulatory Detoxification with Extended On-site Monitoring (ASAM Level II-D) (Adults only)

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level II-D into this program;

2. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days; and

3. ensure that level II-D services are offered in conjunction with intensive outpatient treatment services (ASAM Level II.1).

B. Staffing. The provider shall ensure that:

1. a physician is on-site at least 10 hours per week during operational hours and on-call 24 hours per day, seven days per week;

2. there is a LMHP or UP on site 40 hours per week;

3. each UP caseload does not exceed 1:25 active clients;

4. there is a nurse on call 24 hours per day, seven days per week and on site no less than 40 hours a week; and

5. there is a RN on-site as needed to perform nursing assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 57. Behavioral Health Service Providers

§5701. Clinically Managed Low-Intensity Residential Treatment Program (ASAM Level III.1)

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level III.1 into its Clinically Managed Low-Intensity Residential Treatment Program;

2. offer at least five hours per week of a combination of low-intensity clinical and recovery focused services, including:

a. individual therapy;

b. group and family therapy;

c. medication management; and

d. medication education;

3. ensure that the treatment plan is reviewed in collaboration with the client at least every 90 days;

4. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Staffing

1. The provider shall have a clinical supervisor available for clinical supervision and by telephone for consultation.

2. There shall be at least one LMHP or UP on duty at least 40 hours a week.

3. Adult Staffing Patterns

a. The UP caseload shall not exceed 1:25 active clients.

b. There shall be at least one direct care aide on duty during each shift.

4. Children/Adolescent Staffing Patterns

a. The UP caseload shall not exceed 1:8 active clients.

b. The provider shall have at least two direct care aides on duty during each shift.

c. There shall be a ratio of 1:8 direct care aides during all shifts and a ratio of 1:5 direct care aides on therapy outings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5703. Clinically Managed Residential Detoxification (Social Detoxification) (ASAM Level III.2D)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level III.2D into its Clinically Managed Residential Detoxification Program;

2. screen each client upon arrival for at least the following to ensure proper placement:

a. withdrawal potential;

b. biomedical conditions; and

c. cognitive/emotional complications;

3. have at least one staff member on each shift trained in cardiopulmonary resuscitation (CPR);

4. develop and implement an individualized stabilization/treatment plan in collaboration with the client that:

a. shall be reviewed and signed by the UP and the client; and

b. shall be filed in the client's record within 24 hours of admission;

5. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Emergency Admissions

1. If a client is admitted under emergency circumstances, the admission process may be delayed until the client can be interviewed, but no longer than 24 hours unless seen by a physician.

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness associated with detoxification and to access emergency services promptly.

C. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week and on duty as needed for management of psychiatric and medical needs of the clients;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. there is at least one LMHP or UP available on site at least 40 hours per week; and

4. for adults:

a. each LMHP/UP's caseload shall not exceed 1:25;

b. there is at least one direct care aide per shift with additional as needed;

5. for children/adolescents:

a. each LMHP/UP's caseload shall not exceed 1:16;

b. there are at least two direct care aides per shift with additional as needed; and

c. the ratio of aides to clients shall not exceed 1:10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5705. Clinically Managed Medium-Intensity Residential Treatment (ASAM Level III.3) (Adult Only)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level III.3 into its Clinically Managed Medium-Intensity Residential Program;

2. offer at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services;

3. ensure that the treatment plan is reviewed in collaboration with the client as needed or at a minimum of every 90 days and documented accordingly; and

4. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day and on duty as needed for management of psychiatric and medical needs;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. there is 24 hour on-call availability by an RN plus a licensed nurse on duty whenever needed to meet the professional nursing requirements;

4. there is a LMHP or UP on site 40 hours a week to provide direct client care;

5. each LMHP/UP caseload shall not exceed 1:12; and

6. there is at least one direct care aide on duty for each shift plus additional aides as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5707. Clinically Managed High-Intensity Residential (ASAM Level III.5)

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.5 into its Clinically Managed High Intensity Residential Treatment Program;

2. the treatment plan is reviewed in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly;

3. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs of the clients;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. the provider shall have one licensed RN on call 24/7 to perform nursing duties for the provider; and

4. there shall be at least one LMHP or UP on duty at least 40 hours per week;

5. for adult staffing patterns:

a. each LMHP/UP's caseload shall not exceed 1:12;

b. there shall be at least one direct care aide on duty on all shifts with additional as needed; and

c. there shall be at least one nurse on duty during the day and evening shifts;

6. for children/adolescent staffing patterns:

a. each LMHP/UP's caseload shall not exceed 1:8; and

b. there shall be at least two direct care aides on duty during all shifts with additional as needed. The ratio of aides to clients shall not exceed 1:8. On therapy outings, the ratio shall be at least 1:5;

c. there shall be a psychologist available when needed; and

d. there shall be a nurse on duty when needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5709. Medically Monitored Intensive Residential (ASAM Level III.7) (Adults only)

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.7 into its Medically Monitored Intensive Residential Treatment Program; and

2. the treatment plan is reviewed and updated in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly;

3. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. there is at least one LMHP or UP on duty at least 40 hours/week;

4. there is at least one RN on call 24 hours per day, seven days per week to perform nursing duties and at least one nurse is on duty during all shifts with additional as needed;

5. its on-site nursing staff is solely responsible for III.7 program and does not provide services for other levels of care at the same time;

6. each LMHP/UP caseload shall not exceed 1:10;

7. there is at least one direct care aide on duty on all shifts with additional as needed;

8. there is an activity or recreational therapist on duty at least 15 hours per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5711. Medically Managed Residential Detoxification (Medical Detoxification) (ASAM Level III.7D) (Adults Only)

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.7D into its Medically Managed Residential Detoxification Program;

2. ensure that:

a. a physical examination is conducted by a physician, PA or NP within 24 hours of admission; or

b. the provider's admitting physician reviews and approves a physical examination conducted by a physician, PA or NP within 24 hours prior to admission;

3. assess each client's progress at least daily;

4. assess each client's physical condition, including vital signs, at least daily, or more frequently as indicated by physician's order or change in the client's status;

5. have a reliable, adequately sized emergency power system to provide power during an interruption of normal electrical service;

6. provide case management that is:

a. conducted by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Emergency Admissions

1. If a client is admitted under emergency circumstances, the admission process may be delayed until the client can be interviewed, but no longer than 24 hours unless seen by a physician.

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

C. Staffing

1. The provider shall have a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs of the clients.

2. Nursing

a. The provider shall have at least one RN on call 24 hours per day, seven days per week to perform nursing duties.

b. There shall be at least one nurse on duty during all shifts with additional as needed based upon the provider's census and the clients' acuity levels.

c. There shall be a RN on-site no less than 40 hours per week who is responsible for conducting nursing assessments upon admission and delegating staffing assignments to the nursing staff based on the assessments and the acuity levels of the clients.

d. The provider shall ensure that its on-site nursing staff is solely responsible for III.7D program and does not provide services for other levels of care at the same time.

e. The nursing staff is responsible for:

i. monitoring client's progress; and

ii. administering medications in accordance with physician orders.

3. Clinical Supervisor and Unlicensed Professionals

a. The provider shall have a clinical supervisor available for clinical supervision when needed and by telephone for consultation.

b. The LMHP and UP caseload shall not exceed 1:10.

4. There shall be at least one direct care aide on all shifts with additional as needed based upon the provider's census and the clients' acuity levels.

5. The provider shall have at least one employee on duty certified in CPR and airway obstruction treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5713. Mothers with Dependent Children Program (Dependent Care Program)

A. A provider's Mothers with Dependent Children Program shall:

1. meet the requirements of ASAM level III.3;

2. provide weekly parenting classes where attendance is required;

3. address the specialized needs of the parent;

4. provide education, counseling, and rehabilitation services for the parent that further addresses:

a. the effects of chemical dependency on a woman's health and pregnancy;

b. parenting skills; and

c. health and nutrition;

5. regularly assess parent-child interactions and address any identified needs in treatment; and

6. provide access to family planning services.

B. Child Supervision

1. The provider shall ensure that it provides child supervision appropriate to the age of each child when the mother is not available to supervise her child.

2. The provider shall ensure that its child supervision is provided by either:

a. the provider's on-site program with all staff members who:

i. are at least 18 years old;

ii. have infant CPR certification; and

iii. have at least eight hours of training in the following areas prior to supervising children independently:

(a). chemical dependency and its impact on the family;

(b). child development and age-appropriate activities;

(c). child health and safety;

(d). universal precautions;

(e). appropriate child supervision techniques; and

(f). signs of child abuse;

b. a licensed day care provider pursuant to a written agreement with the provider.

3. The provider shall maintain a staff-to-child ratio that does not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children.

4. Child Specialist. The provider shall have a child specialist who:

a. is available to provide staff training, evaluate effectiveness of direct care staff, and plan activities, for at least one hour per week per child;

b. has 90 clock hours of education and training in child development and/or early childhood education; and

c. has one year of documented experience providing services to children.

5. Clients shall not supervise another parent's child or children without written consent from the legal guardian and staff approval.

6. Staff shall check all diapers frequently, change without delay, dispose of the diapers in a sealed container and sanitize the changing area.

C. Clinical Care for Children. The provider shall:

1. address the specialized and therapeutic needs and care for the dependent children and develop an individualized plan of care to address those needs, to include goals, objectives and target dates;

2. provide age-appropriate education, counseling, and rehabilitation services for children that address or include:

a. the emotional and social effects of living with a chemically dependent care- giver;

b. early screening and intervention of high risk behavior and when indicated provide or make appropriate referrals for services;

c. screening for developmental delays; and

d. health and nutrition;

3. ensure that all children have access to medical care when needed;

4. ensure that children are administered medication according to the label by the parent or licensed staff qualified to administer medications; and

5. ensure that if staff will be administering medication, the provider:

a. obtains written consent from the parent to administer the medication; and

b. assumes full responsibility for the proper administration and documentation of the medication;

6. maintain current immunization records for each child at the program site; and

7. obtain consent for emergency medical care for each child at admission.

D. Child Services

1. The daily activity schedule for the children shall include a variety of structured and unstructured age-appropriate activities.

2. School age children shall have access to school.

3. The health, safety, and welfare of the children shall be protected at all times.

4. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

5. The children shall be clean and appropriately dressed.

6. An adequate diet for childhood growth and development, including two snacks per day, shall be provided to each child.

E. The program shall develop, implement and comply with written policies and procedures that:

1. address abuse and/or neglect of a child;

2. prohibit children under the age of 18 months from sleeping in bed with their mothers;

3. require a current schedule showing who is responsible for the children at all times;

4. address isolating parents and children who have communicable diseases and providing them with appropriate care and supervision; and

5. address the persons authorized to take a child away from the provider.

F. Safety and Emergency Preparedness

1. The program shall develop and implement an emergency preparedness plan that includes provisions and services for the clients and children.

2. The program shall ensure that all toys and equipment are age appropriate and in good order and safe condition in accordance with manufacturer's recommendations.

3. Staff, volunteers, and parents shall use universal precautions when caring for children other than their own.

4. The provider shall ensure that only the legal guardian or a person authorized by the legal guardian may take a child away from the provider. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

G. Physical Environment

1. The program shall provide potty chairs for small children and sanitize them after each use.

2. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

3. Each child shall be provided with his/her own bed.

4. Infants up to 18 months shall sleep in either a bassinet or cribs appropriate to the size of the child.

5. The provider shall provide a variety of age-appropriate equipment, toys, and learning materials for the children/adolescents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter N. Additional Requirement for Substance Abuse/Addictive Residential Treatment Programs

NOTE: In addition to the requirements applicable to all BHS providers, residential programs that treat substance abuse/addiction must meet the applicable requirements below.

§5715. Client Funds and Assets

A. If a BHS provider manages clients' personal funds accounts, the BHS provider shall develop and implement written policies and procedures governing the maintenance and protection of the client fund accounts that include, but are not limited to:

1. the maximum amount each client may entrust with the provider;

2. the criteria by which clients can access money;

3. the disbursement procedure, including the maximum amount that may be disbursed to the client;

4. staff members who may access such funds; and

5. the method for protecting and maintaining the funds.

B. The BHS provider that manages a client's personal funds shall:

1. furnish a copy of the provider's policy and procedures governing the maintenance and protection of client funds to the client or the client's parents or legal guardian, if applicable;

2. obtain written authorization from the client or the client's parent or legal guardian, if applicable, for the safekeeping and management of the funds;

3. provide each client with an account statement upon request with a receipt listing the amount of money the provider is holding in trust for the client;

4. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

5. provide a list or account statement regarding personal funds upon request of the client; and

6. be prohibited from commingling the clients' funds with the provider's operating account.

C. If the BHS provider manages funds for a client, the provider shall ensure that:

1. any remaining funds shall be refunded to the client or his/her legal guardian within five business days of notification of discharge; and

2. in the event of the death of a client, any remaining funds are refunded to the client's legal representative within five business days of the client's death.

D. The BHS provider shall develop, implement and comply with a policies and procedures that address:

1. the maintenance and safeguard of client possessions, including money, brought to the Provider by its clients;

2. maintaining an inventory of each client's possessions from the date of admission;

3. returning all possessions to the client upon the client's discharge; and

4. requiring the client and one staff member to sign documentation indicating that the client's possessions have been placed with the provider and the return of possessions to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5717. Dietary Services

A. The residential BHS provider shall ensure that:

1. all dietary services are provided under the direction of a Louisiana licensed and registered dietician either directly or by written agreement;

2. menus are approved by the licensed and registered dietician;

3. meals are of sufficient quantity and quality to meet the nutritional needs of clients, including religious and dietary restrictions;

4. meals are in accordance with FDA dietary guidelines and the orders of the authorized licensed prescriber;

5. at least three meals plus an evening snack are provided daily with no more than 14 hours between any two meals;

6. all food is stored, prepared, distributed, and served under safe and sanitary conditions;

7. all equipment and utensils used in the preparation and serving of food are properly cleaned, sanitized and stored; and

8. if meals are prepared on-site, they are prepared in an OPH approved kitchen.

B. The BHS provider may provide meal service and preparation pursuant to a written agreement with an outside food management company. If provided pursuant to a written agreement, the provider shall:

1. maintain responsibility for ensuring compliance with this Chapter;

2. ensure that the outside food management company possesses a valid OPH retail food permit; and

3. ensure that, if the provider does not employ or directly contract with a licensed and registered dietician, the food management company employs or contracts with a licensed and registered dietician who serves the provider as needed to ensure that the nutritional needs of the clients are met in accordance with the authorized licensed prescriber's orders and acceptable standards of practice.

C. The dietitian shall:

1. approve therapeutic menus; and

2. be available for consultation when necessary.

D. If the BHS provider has a program that allows menu planning and preparation by clients, the provider shall develop and implement a policy with guidelines for the participating clients that:

1. ensures that meal preparation/service, with client participation, meets all requirements listed above; and

2. defines the client's duties in writing and has written instructions posted or easily accessible to clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5719. Transportation

A. A residential BHS provider shall assist in arranging for or provide transportation necessary for implementing the client's treatment plan, including but not limited to, court-ordered hearings and medically necessary appointments with a health care provider.

B. The BHS provider may provide transportation pursuant to a written agreement with an outside transportation service. If provided pursuant to a written agreement, the provider shall maintain responsibility for ensuring compliance with this Chapter.

C. Any vehicle used to transport a BHS provider's client shall be:

1. properly licensed and inspected in accordance with state law;

2. maintained in a safe condition;

3. operated at a temperature that does not compromise the health, safety or needs of the client; and

4. operated in conformity with all of the applicable motor vehicle laws.

D. The provider shall ensure that it or its contracted transportation service:

1. has documentation of current liability insurance coverage for all owned and non-owned vehicles used to transport clients. The personal liability insurance of a provider's employee shall not be substituted for the required coverage;

2. utilizes only drivers who are properly licensed to operate that class of vehicle in accordance with state law;

3. obtains a driving history record of each employee upon hire and annually thereafter;

4. prohibits the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the vehicle; and

5. ascertains the nature of any need or problem of a client which might cause difficulties during transportation. This information shall be communicated to agency staff responsible for transporting clients.

E. The provider shall comply with the following when transporting disabled non-ambulatory clients in a wheelchair:

1. a ramp to permit entry and exit of a client from the vehicle;

2. wheelchairs used in transit shall be securely fastened inside the vehicle utilizing approved wheelchair fasteners; and

3. the client is securely fastened in the wheelchair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5721. Staffing

A. The provider shall ensure that there are at least two staff persons on site at all times when a client is present.

B. House Manager

1. A residential provider shall have a house manager.

2. The house manager shall:

a. be at least 21 years old;

b. have at least two years qualifying experience working for a provider that treats clients with mental illness and/or addiction disorders;

c. supervise the activities of the facility when the professional staff is not on duty;

d. perform clinical duties only if licensed to do so;

e. report incidents of abuse, neglect and misappropriation to the medical director;

f. identify and respond to and report any crisis situation to the clinical supervisor when it occurs; and

g. coordinate and consult with the clinical staff as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 40:

§5723. Policies and Procedures

A. House Rules and Regulations. A residential provider shall:

1. have a clearly written list of house rules and regulations governing client conduct and behavior management;

2. provide a copy of the house rules and regulations to all clients and, where appropriate, the client's parent(s) or legal guardian(s) upon admission;

3. post the rules and regulations in an accessible location in the provider and make them available when requested; and

4. have a policy and procedure that pertains to the bedroom assignment of its clients, with consideration given to age, client's diagnosis and severity of client's illness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5725. Safety

A. After discharge of a client, the residential provider shall:

1. clean the bed, mattress, cover, bedside furniture and equipment;

2. ensure that mattresses, blankets and pillows assigned to clients are in a sanitary condition; and

3. ensure that the mattress, blankets and pillows used for a client with an infection is sanitized before assigned to another client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Subchapter O. Additional Requirements for Opioid Treatment Programs

§5727. General Provisions

A. A provider with an opioid treatment program shall:

1. meet the requirements of the protocols established by OBH/State Opioid Authority;

2. update the Louisiana methadone central registry daily and as needed;

3. upon the death of a client:

a. report the death of a client enrolled in their clinic to the SOA within 24 hours of the discovery of the client's death;

b. report the death of a client to HSS within 24 hours of discovery if the death is related to program activity;

c. submit documentation on the cause and/or circumstances to SOA and to HSS, if applicable, within 24 hours of the provider's receipt of the documentation; and

d. adhere to all protocols established by DHH on the death of a patient;

4. conduct at least eight random monthly drug screen tests on each client per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5729. Treatment

A. Client Admission Criteria. The program shall only admit clients that:

1. are at least 18 years old, unless the client has consent from a parent, or legal guardian, if applicable;

2. meet the federal requirements regarding the determination that the client is currently addicted to opiates and has been addicted to opiates for at least one year prior to admission or the exceptions;

3. are verified by a physician that treatment is medically necessary;

4. have had a complete physical evaluation by the client's or program's physician before admission to the opioid treatment program;

5. have had a full medical exam, including results of serology and other tests, completed within 14 days of admission; and

6. have a documented history of opiate addiction.

B. Treatment Phases

1. Initial Treatment. During the initial treatment phase that lasts from three to seven days in duration, the provider shall:

a. conduct client orientation;

b. provide individual counseling; and

c. develop the initial treatment plan including initial dose of medication and plan for treatment of critical health or social issues.

2. Early Stabilization. In the early stabilization period that begins on the third to seventh day following initial treatment through 90 days duration, the provider shall:

a. conduct weekly monitoring by a nurse of the client's response to medication;

b. provide at least four individual counseling sessions;

c. revise the treatment plan within 30 days to include input by all disciplines, the client and significant others; and

d. conduct random monthly drug screen tests.

3. Maintenance Treatment. In the maintenance treatment phase that follows the end of early stabilization and lasts for an indefinite period of time, the provider shall provide:

a. random monthly drug screen tests until the client has negative drug screen tests for 90 consecutive days. Thereafter, the provider shall conduct at least eight random drug screen tests per year as well as random testing for alcohol when indicated;

b. monthly testing to clients who are allowed six days of take-home doses;

c. continuous evaluation by the nurse of the client's use of medication and treatment from the program and from other sources;

d. documented reviews of the treatment plan every 90 days in the first two years of treatment by the treatment team; and

e. documentation of response to treatment in a progress note at least every 30 days.

4. Medically Supervised Withdrawal from Synthetic Narcotic with Continuing Care. Medically supervised withdrawal is provided if and when appropriate. If provided, the provider shall:

a. decrease the dose of the synthetic narcotic to accomplish gradual, but complete withdrawal, as medically tolerated by the client;

b. provide counseling of the type and quantity determined by the indicators and the reason for the medically supervised withdrawal from the synthetic narcotic; and

c. conduct discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

5. Required Withdrawal. The provider shall provide medically-approved and medically-supervised assistance to withdrawal from the synthetic narcotic when:

a. the client requests withdrawal;

b. quality indicators predict successful withdrawal; or

c. client or payer source suspends payment of fees.

C. Counseling. The provider shall ensure that:

1. counseling is provided when requested by the client or family;

2. written criteria are used to determine when a client will receive additional counseling;

3. the type and quantity of counseling is based on the assessment and recommendations of the treatment team;

4. written documentation supports the decisions of the treatment team, including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity, and detoxification procedure;

5. all counseling is provided individually or in homogenous groups, not to exceed 12 clients.

D. Physical Evaluations/Examinations. The provider shall ensure that each client has a documented physical evaluation and examination by a physician or advanced practice registered nurse as follows:

1. upon admission;

2. every other week until the client becomes physically stable;

3. as warranted by client's response to medication during the initial stabilization period or any other subsequent stabilization period;

4. after the first year and annually thereafter; and

5. any time that the client is medically unstable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5731. Additional Staffing Requirements

A. The provider's opioid treatment program shall have the following staff in addition to the general staffing requirements.

1. Pharmacist or Dispensing Physician

a. An opioid treatment program that dispenses prescription medication on-site shall employ or contract with a pharmacist or dispensing physician to assure that any prescription medication dispensed on-site meets the requirements of applicable state statutes and regulations.

b. The pharmacist or dispensing physician shall have a current, valid unrestricted license to practice in the state of Louisiana.

c. The provider's pharmacist or dispensing physician shall:

i. provide on-site services;

ii. dispense all medications;

iii. consult with the provider as needed;

iv. evaluate medication policy and procedure of provider to dispense medications;

v. reconcile inventories of medications that were dispensed and/or administered at least every 30 days;

vi. maintain medication records for at least three years;

vii. approve all transport devices for take-home medications in accordance with the program's diversion control policy.

2. Nursing

a. The provider shall maintain a sufficient number of nurses to meet the needs of its clients.

b. Each nurse shall have a current unrestricted license to practice nursing in the state of Louisiana.

c. The responsibilities of the nurse(s) include:

i. administering medications; and

ii. monitoring the client's response to medications.

3. Licensed Mental Health Professionals

a. The provider shall maintain a sufficient number of LMHPs to meet the needs of its clients.

b. The provider shall ensure that:

i. there is one LMHP for every 50 active clients; and

ii. there is an LMHP on site at least five hours/week.

4. Unlicensed Professionals

a. The provider shall maintain enough UPs to meet the needs of its clients.

b. The caseload of the UP shall not exceed 75 active clients.

5. Physician or APRN. There shall be a physician or APRN who is on-site as needed and on-call as needed during hours of operation.

B. Training. All direct care employees shall receive orientation and training for and be able to demonstrate knowledge of the following, including, but not limited to:

1. symptoms of opiate withdrawal;

2. drug screen testing and collections;

3. current standards of practice regarding opiate addiction treatment;

4. poly-drug addiction; and

5. information necessary to ensure care is provided within accepted standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5733. Medications

A. The provider shall ensure that all medications are administered by a nurse, pharmacist or any other licensed practitioner licensed under state law and authorized by federal and state law to administer or dispense opioid drugs.

B. Take-Home Dose(s)

1. The provider shall ensure that:

a. determinations for take-home dose(s) and the factors considered are made by the treatment team and are documented in the client's record when each take-home dose is authorized;

b. date and recommended dosage are documented in the client's record; and

c. take-home dose(s) are ordered by the medical director.

2. The provider shall ensure that the following factors are considered by the medical director and treatment team before a take-home dose is authorized by the treatment team:

a. a negative drug/alcohol screens for at least 30 days;

b. regularity of clinic attendance;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. absence of known drug related criminal activity during treatment;

f. stability of home environment and social relationships;

g. assurance that take-home medication can be safely stored; and

h. whether the benefit to the client outweighs the risk of diversion.

3. Standard Schedule. The provider shall abide by the following schedule of take-home, therapeutic doses when a take-home dose is authorized:

a. after the first 30 days of treatment, and during the remainder of the first 90 days of treatment, one take-home, therapeutic dose per week;

b. in the second 90 days of treatment, two doses, consisting of take-home, therapeutic doses, may be allowed per week;

c. in the third 90 days of treatment, three doses consisting of take-home, therapeutic doses may be allowed per week;

d. in the final 90 days of treatment during the first year, four doses consisting of take-home, therapeutic doses may be allowed per week;

e. after one year in treatment, a six-day dose supply consisting of take-home, therapeutic doses may be allowed once a week;

f. after two years in treatment, a 13-day dose supply consisting of take-home, therapeutic doses may be allowed once every two weeks.

4. Loss of Privilege. Positive drug screens at any time for any drug other than those prescribed will require a new determination to be made by the treatment team regarding take-home doses.

5. Exceptions to the Standard Schedule. The provider must request and obtain approval for an exception to the standard schedule from the State Opioid Authority. Any exception must be for an emergency or severe travel hardship.

C. Temporary Transfers or Guest Dosing. The providers involved in a temporary transfer or guest dosing shall ensure the following:

1. the receiving provider shall verify dosage prior to dispensing and administering medication;

2. the sending provider shall verify dosage and obtain approval and acceptance from receiving provider prior to client's transfer; and

3. that documentation to support all temporary transfers and guest dosing is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§5735. Client Records

A. In addition to the general requirements for client records, each client record shall contain:

1. recording of medication administration and dispensing in accordance with federal and state requirements;

2. results of five most recent drug screen tests with action taken for positive results;

3. physical status and use of additional prescription medication;

4. monthly or more frequently, as indicated by needs of client, contact notes and progress notes which include employment/vocational needs, legal and social status, and overall individual stability;

5. documentation and confirmation of the factors to be considered in determining whether a take-home dose is appropriate;

6. documentation of approval of any exception to the standard schedule of take-home doses and the physician's justification for such exception; and

7. any other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

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 assuring the safe operation of facilities that behavioral health 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 Cecile Castello, Bureau of Health Services Financing, P.O. Box 3767, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Castello 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 Thursday, April 24, 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: Behavioral Health Service Providers 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 $19,188 (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 increase revenue collections to the department by approximately $36,000 for FY 13-14, $36,000 FY 14-15, and $36,000 for FY 15-16 as a result of the collection of annual licensing fees from behavioral health service providers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions in order to establish licensing standards governing behavioral health service (BHS) providers to comply with the directives of Act 308 of the 2013 Regular Session of the Louisiana Legislature (anticipate approximately 60 BHS providers). It is anticipated that implementation of this proposed rule will have economic costs to behavioral health service providers of approximately $600 annually, and will benefit all behavioral health service providers by providing up-to-date licensing requirements for operation in the state of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1403#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Coordinated Care Network
Recipient Participation
(LAC 50:I.3103 and 3105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 and §3105 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 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 now proposes to amend the provisions governing coordinated care networks to permit certain individuals who receive waiver services authorized under the provisions of 1915(b) and 1915(c) of the Social Security Act, and Medicaid eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as Chisholm class members) to have the option of voluntarily enrolling into a participating health plan under the BAYOU HEALTH Program. This proposed Rule will also require mandatory enrollment of certain recipients who receive hospice services. Recipients who enroll with a health plan will have their acute care and other Medicaid covered services coordinated through 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. Reserved.

2. …

a. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program; and

3. individuals receiving hospice services who are not otherwise excluded because of their status as a Medicare dual eligible recipient, or a resident of a long-term care facility (nursing facility or intermediate care facility for persons with intellectual disabilities).

B. Voluntary Participants

1. Participation in a CCN is voluntary for:

a. - a.i. …

ii. an Indian health program or urban Indian program operated by a tribe or tribal organization under a contract, grant, cooperative agreement or compact with the Indian Health Service;

b. - b.iv. …

v. enrolled in the Family Opportunity Act Medicaid Buy-In Program;

c. individuals who receive home and community-based waiver services; and

d. children under the age of 21 who are listed on the new opportunities waiver request for services registry. These children are identified as Chisholm class members.

i. For purposes of these provisions, Chisholm class members shall be defined as those children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* (or her successor) class action litigation.

2. Chisholm class members and home and community-based waiver recipients shall be exempt from the auto-assignment process and must proactively seek enrollment into an available health plan.

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. are both Medicare and Medicaid recipients;

b. reside in a long-term care facility (nursing facility or intermediate care facility for persons with intellectual disabilities);

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

d. have a limited period of eligibility such as eligibility through the Spend-down Medically Needy Program or emergency services only;

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

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

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

h. - j. Repealed.

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 40:310 (February 2014), LR 40:

§3105. Enrollment Process

A. - D.2. …

E. Selection of a CCN

1. - 2. …

a. Recipients who fail to choose a CCN shall be automatically assigned to a CCN by the enrollment broker and the CCN shall be responsible to assign the member to a PCP if a PCP is not selected at the time of enrollment into the CCN.

i. Recipients of home and community-based services and Chisholm class members shall be exempt from automatic assignment to a CCN.

3. - 4.b.…

c. Recipients who fail to make a selection will be automatically assigned to a participating CCN in their area, with the exception of recipients of home and community-based services and Chisholm class members.

4.d. …

F. Automatic Assignment Process

1. …

a. mandatory CCN participants that fail to select CCN and voluntary participants that do not exercise their option not to participate in the CCN program within the minimum 30 day window, with the exception of recipients of home and community-based services and Chisholm class members;

F.1.b. - I.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1574 (June 2011), amended LR 40:310 (February 2014), 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 by providing families with better coordination of their health care and increasing the quality and continuity of care for the individual and the entire family.

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 by reducing the financial burden on families through better coordinated health care services and increased continuity of care.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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 Thursday, April 24, 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: Coordinated Care Network Recipient Participation

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 no material impact on state general fund programmatic costs in FY 13-14, FY 14-15, and FY 15-16 since the inclusion of hospice recipients will not impact enrollment as only a very few hospice recipients will be

eligible for managed care enrollment; managed care enrollment for HCBS eligibles and Chisholm class members are strictly voluntary and their enrollment will result in an expenditure shift in categories of services with an immaterial net impact on program costs. It is anticipated that $656 ($328 SGF and $328 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 $328 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 Coordinated Care Networks to allow enrollment of certain recipients of waiver services, hospice services, and Chisholm class members into managed care through the Bayou Health Program. It is anticipated that implementation of this proposed Rule will not have material programmatic costs to the Medicaid Program 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 and employment.

J. Ruth Kennedy	Evan Brasseaux
Medicaid Director	Staff Director
1403#060	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Family Planning Services
(LAC 50:XV.Chapters 251-257)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapters 251-257 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.

Section 2303 of the Affordable Care Act (ACA) provides states with the option to cover family planning services and supplies under their Medicaid state plan to individuals who were previously ineligible for Medicaid coverage of these services, with the exception of those individuals who were eligible through the state's Section 1115 demonstration family planning waiver.

Pursuant to section 2303 of ACA, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish a new optional eligibility group under the Medicaid state plan to provide coverage for family planning services and supplies. Family planning state plan services shall be available to eligible men and non-pregnant women.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 17. Family Planning Services

Chapter 251. General Provisions

§25101. Purpose

A. Effective July 1, 2014, the Medicaid Program shall provide coverage of family planning services and supplies under the Medicaid state plan, to a new targeted group of individuals who are otherwise ineligible for Medicaid. This new optional coverage group will also include individuals currently receiving family planning services through the section 1115 demonstration waiver, Take Charge Program, at the time the new family planning state plan option becomes effective.

B. The primary goals of family planning services are to:

1. increase access to services which will allow management of reproductive health;
2. reduce the number of unintended pregnancies; and
3. reduce Medicaid expenditures for prenatal and delivery related services for women in the targeted population.

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:

Chapter 253. Eligibility Criteria

§25301. Recipient Qualifications

A. Recipients who qualify for family planning services in the new categorically needy group include men and women of any age who meet the following criteria:

1. women who are not pregnant; and
2. have income at or below 214 percent of the federal poverty level; or
3. women who would have been eligible for the approved section 1115 family planning demonstration waiver, Take Charge 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 40:

Chapter 255. Services

§25501. Covered Services

A. Family planning services are services and supplies that prevent or delay pregnancy. Medicaid covered family planning services include:

1. four office visits per year for physical examinations or necessary re-visits as it relates to family planning and birth control;
2. counseling, education, follow-ups and referrals;
3. laboratory examinations and tests for the purposes of family planning; and
4. pharmaceutical supplies and devices to prevent conception, including:
   a. all methods of contraception approved by the federal Food and Drug Administration;
   b. male and female sterilization procedures provided in accordance with 42 CFR 441, Subpart F; and
   c. natural family planning.

C. Family planning-related services may be provided when conducted as part of a visit for the purpose of

delivering family planning services or as a follow-up to a visit for the purpose of delivering family planning services. Medicaid-covered family planning-related services include:

1. diagnostic procedures and treatment of sexually-transmitted diseases and infections;

2. annual family planning visits for women of child bearing age, men and teens, which may include:

a. a comprehensive patient history;

b. physical;

c. laboratory tests; and

d. contraceptive counseling; and

3. transportation 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, Bureau of Health Services Financing, LR 40:

§25503. Service Delivery

A. Family planning services may be delivered through any enrolled Medicaid provider whose scope of practice includes family planning 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, Bureau of Health Services Financing, LR 40:

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. All Medicaid providers, including federally qualified health centers, rural health clinics and tribal 638 facilities, shall be reimbursed according to the established fee-for-service rates published in the Medicaid fee schedule for family planning 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, 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, Center for 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 by increasing access to family planning 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 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 by reducing the financial burden on families for family planning services and supplies.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, April 24, 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: Family Planning Services

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 costs of $287 for FY 13-14, $1,306,209 for FY 14-15 and $1,345,750 for FY 15-16. As there is no new funding for this new state plan service, any additional cost will be absorbed with existing resources in 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 $287 for FY 13-14, $2,136,619 for FY 14-15 and $2,200,363 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 adopts provisions to establish a new optional targeted group under the Medicaid State Plan to provide coverage for family planning services, and to transition participants from the existing Section 1115 Demonstration Family Planning Waiver to the state plan services. It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid Program by approximately $3,442,828 for FY 14-15 and $3,546,113 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
1403#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Freedom of Choice (LAC 50:XXI.Chapter 1)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.Chapter 1 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 of Aging and Adult Services propose to amend the provisions governing home and community-based services waivers in order to adopt provisions for the removal of service providers from the waiver freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 1. General Provisions
Chapter 1. Freedom of Choice
§101. General Provisions

A. The Department of Health and Hospitals may remove a service provider from the waiver provider freedom of choice list and offer freedom of choice to waiver participants when:

1. one or more of the following departmental proceedings are pending against a waiver participant's service provider:

a. revocation of the provider's home and community-based services license;

b. exclusion from the Medicaid Program;

c. termination from the Medicaid Program; or

d. withholding of Medicaid reimbursement as authorized by the department's surveillance and utilization review (SURS) Rule (LAC 50:I.Chapter 41);

2. the service provider fails to timely renew its home and community-based services license as required by the home and community-based services providers licensing standards Rule (LAC 48:I.Chapter 50); or

3. the Louisiana Attorney General's Office has seized the assets of the service 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, 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 or autonomy as described in R.S. 49:972 by ensuring the integrity of waiver participants' freedom of choice in the selection of available qualified service providers.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, April 24, 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—Freedom of Choice

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 other than the federal share of the promulgation costs for FY 13-14. 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 the home and community-based services waivers in order to adopt provisions for the removal of service providers from the waiver freedom of choice list when departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants. It is anticipated that implementation of this proposed Rule will not have economic

cost or benefits to home and community-based waiver service providers 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
1403#062	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Hospital Licensing Standards
Alternative Birthing Units
(LAC 48:I.9551-9567)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.9551-9576 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2100-2115. 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 hospital licensing standards to clarify the renewal process of a license that is under revocation, and to allow hospitals to contract with providers for outside dietary services (*Louisiana Register*, Volume 38, Number 6). The department now proposes to amend the provisions governing hospital licensing standards to adopt provisions for alternative birthing units within hospitals.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 93. Hospitals
Subchapter U. Alternative Birthing Units

§9551. General Provisions

A. An alternative birthing unit (ABU) is a unit that is housed within a licensed hospital that provides both obstetrical and neonatal intensive care unit (NICU) level one status at that location. The ABU shall be its own designated unit, separate and apart from any other unit within the hospital.

B. An ABU shall be in compliance with the:

1. American Midwifery Certification Board;
2. American Academy of Pediatrics; and
3. American College of Obstetrics and Gynecology guidelines.

C. An ABU shall be in compliance with all federal, state and local statutes, laws, rules, regulations and ordinances as applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9553. Definitions

Active Labor—contractions resulting in progressive effacement and dilation of the cervix.

Alternative Birthing Unit (ABU)—a unit located within a hospital in which delivery is expected following a low risk, normal, and uncomplicated pregnancy. Care and services provided prior to, during, and following childbirth are under the direction of a certified nurse midwife.

Antepartum Care (Prenatal Care)—occurring or existing before birth. The prenatal period (also known as antenatal care) refers to the regular medical and nursing care recommended for women during pregnancy. Prenatal care is a type of preventative care with the goal of providing regular check-ups that allow doctors or certified nurse midwives to treat and prevent potential health problems throughout the course of the pregnancy.

Certified Nurse Midwife (CNM)—an advanced practice registered nurse educated in the disciplines of nursing and midwifery and certified according to a nationally recognized certifying body, such as the American College of Nurse Midwives Certification Council, as approved by the Board, and who is authorized to manage the nurse midwifery care of newborns and women in the antepartum, intrapartum, postpartum and/or gynecological periods pursuant to Title 46, Part XLVII, Chapter 45, §4503.B.1 et seq.

Complications—any condition as defined by the medical staff/governing body that contraindicates continued care in the alternative birthing center.

Doula—a nonmedical person, certified by Doula of North America (DONA) who assists a woman before, during or after childbirth, as well as her partner and/or family, by providing information, physical assistance and emotional support.

Family—individuals selected by the pregnant woman to be present and/or in attendance during her admission to the ABU.

Intrapartum—the period beginning with active labor to the expulsion of the placenta.

Licensed Practitioner—for purposes of this Rule refers to a licensed physician and/or a certified nurse midwife.

Low Risk Pregnancy—a normal uncomplicated term pregnancy as determined by a generally accepted course of prenatal care. The expectation of a normal uncomplicated birth as shall be defined by the medical staff/governing body.

Medical Director—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners (LSBME), who is board certified as an obstetrician and gynecologist (OB/GYN) and credentialed and privileged for the hospital's obstetrical/gynecological services.

Postmature—gestational age of greater than 42 weeks.

Postpartum—the period beginning immediately after childbirth.

Preterm—prior to the thirty-seventh week of gestation.

Term—gestational age of greater or equal to 37 weeks.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9555. Program Requirements

A. An ABU shall have policies/procedures and written criteria for the evaluation of risk status, admission, transfer, discharge, and complications requiring medical or surgical intervention. The policies/procedures and written criteria

shall be developed, implemented, enforced, monitored, and reviewed annually by the clinical staff and approved by the governing body.

1. In order for a pregnant woman to be admitted to an ABU, the following admission requirements must be met.

a. The pregnancy shall be deemed low-risk by the licensed practitioner with the expectation of a singleton, vertex, and spontaneous vaginal birth at term without complication.

b. The pregnant woman shall have had consistent prenatal care which began no later than 28 weeks gestation with consistent prenatal screening.

c. A maternal/fetal assessment performed by the CNM shall be completed and documented within one hour of admission to the ABU.

2. The facility shall have policies and procedures readily available in the event the condition of the mother and/or newborn require transfer to an acute care unit within the hospital or emergent transfer to another hospital.

3. The facility shall have policies and procedures for discharge planning of the mother and newborn.

B. A patient who meets any of the following criteria/conditions shall not be admitted for delivery in an ABU:

1. females below 18 years of age;

2. a patient with any of the below documented condition(s) in the maternal medical history, based on an assessment by a licensed practitioner:

a. cardiovascular disease;

b. pulmonary disease and/or history of pulmonary embolus;

c. renal disease;

d. insulin-dependent diabetes;

e. bleeding disorder or hemolytic disease;

f. fetal malpresentation;

g. placenta previa;

h. preeclampsia;

i. oligohydramnios;

j. polyhydramnios;

k. ruptured membranes greater than 18 hours prior to onset of labor;

l. previous Rh sensitization;

m. vaginal birth following C-section (VBAC);

n. multiple births;

o. preterm labor;

p. post-maturity; or

q. fetal abnormality; or

3. a patient with a high risk pregnancy as determined by a licensed practitioner.

C. The following services shall be prohibited in the ABU:

1. general, intravenous, and/or conductive analgesia/anesthesia to include spinal and epidural analgesia/anesthesia;

2. conscious sedation;

3. caesarean sections and operative obstetrics to include tubal ligations;

4. stimulation or augmentation with chemical agents, e.g., oxytocin during the first and second stages of labor; and

5. vacuum extractors and/or forceps.

D. Prenatal Screening Requirements

1. Pregnant women shall be screened by either/or an OB/GYN, a certified nurse midwife (CNM), or an advanced practice registered nurse (APRN). Documentation of the screening shall include, but not be limited to:

a. social, family, medical, reproductive, nutritional, drug and alcohol use;

b. violence screen, depression screen and mental health history;

c. physical examination to include Papanicolaou smear and assessment for sexually transmitted diseases as determined by a licensed practitioner;

d. a prenatal laboratory profile to include a:

i. complete blood count, blood type and Rh antibody screen;

ii. glucose tolerance test;

iii. urinalysis; and

iv. other diagnostic testing as medically indicated; and

e. a repeat evaluation of the hemoglobin or hematocrit between 28 and 36 weeks gestation.

E. Newborn Requirements. The ABU shall be in compliance with current state laws, rules and regulations for screening of newborn health conditions.

F. Patient and/or Patient's Family Educational Requirements. The following educational programs are required to be completed by the patient and/or patient's family as determined by the policy and procedures of the ABU prior to discharge:

1. anticipated physiological and psychological changes during pregnancy;

2. fetal development;

3. normal nutrition;

4. warning signs of pregnancy complications;

5. self-care to include:

a. information on the dangers of smoking, alcohol and substance abuse; and

b. the need for dental care;

6. stages of labor;

7. non-pharmacologic techniques to promote comfort and relaxation during labor;

8. delivery process;

9. newborn care;

10. normal postpartum;

11. bonding;

12. breast-feeding;

13. importance of immunization;

14. criteria for discharge from the center;

15. child safety to include the use of car seats and safe sleeping practices;

16. directions for obtaining laboratory tests for newborns as required by the Department of Health and Hospitals;

17. instruction as to the clothing/supplies needed at the time of discharge from the center; and

18. a family instructional program.

G. In order for the family to participate in the birth process in the ABU, the following requirements shall be met.

1. The number of individuals/family members present at the time of birth shall be determined by the ABU's policy

which takes into account room size and the need for infection control.

2. Individuals/family members shall abide by the facility's infection control policies.

3. An adult not involved in the birthing process shall be in charge of all minor children.

4. Only service animals shall be allowed in the ABU.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9557. Policies and Procedures

A. An ABU shall develop, implement, enforce, monitor, and review annually the policies and procedures specific to the care and services of the mother and newborn. The policies and procedures shall be jointly developed by the medical director and professional staff and adopted by the governing body. These policies and procedures shall include, but are not limited to:

1. staffing;
2. admission criteria;
3. educational services;
4. consent for medical treatment and care;
5. initial and continuing risk assessment by the CNM;
6. criteria for consultation with collaborative physicians;
7. water birth;
8. external fetal monitoring (EFM);
9. nursing assessments;
10. medication administration;
11. laboratory and diagnostic services;
12. dietary services;
13. obstetric and pediatric consultation services;
14. newborn care, including:
    a. pulse oximetry heart disease screening; and
    b. circumcision of a male newborn by a licensed OB/GYN or other qualified physician as determined by the governing body;
15. emergency procedures for the mother and/or newborn, including:
    a. maternal emergent care policy;
    b. newborn emergent care policy;
    c. maternal transfer to an acute care unit within the hospital or transfer to another hospital;
    d. newborn transfer to an acute care unit within the hospital or transfer to another hospital;
    e. precipitous delivery; and
    f. newborn abduction;
16. family support and participation, including:
    a. criteria for labor and delivery attendance; and
    b. doula;
17. unique identification for mother and newborn;
18. delivery log;
19. mother/baby couplet aftercare, including:
    a. lactation support services;
    b. social services; and
    c. home health care services, if applicable;
20. maternal and newborn discharge, including:
    a. length of stay; and
    b. child passenger restraint system;
21. follow-up postpartum and newborn care; and
22. hospital staff on call policy and procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9559. Physical Environment

A. An ABU shall submit, meet, and obtain approval for facility plan review from the Office of State Fire Marshall prior to construction.

1. An ABU shall:
    a. consist of a minimum of two birthing rooms and one examination room;
    b. be located to ensure privacy;
    c. be located out of the path of unrelated traffic; and
    d. be under the direct supervision of the unit staff.
2. Birthing rooms shall:
    a. be single occupancy;
    b. have a minimum clear floor area of 200 square feet, including the newborn care area and a minimum clear dimension of 12 feet;
    c. have an outside window;
    d. have windows or doors within a normal sightline that would permit observation into the room and shall be arranged or draped as necessary for mother and newborn privacy;
    e. have a hands-free hand-washing station; and
    f. have direct access to a private bathroom that includes a:
        i. hand-washing station;
        ii. toilet; and
        iii. shower or tub.

B. The newborn care area shall be a separately located area within the birthing room.

C. The reception and administration area shall be located as to control and monitor traffic flow/access to the ABU.

D. The staff work area shall:

1. be provided for the ABU staff;
2. have space for counters and storage; and
3. have convenient access to hand-washing facilities.

E. Hand-washing stations shall be readily accessible to families, visitors, and staff.

F. Medication Preparation Location

1. Provisions shall be made for the distribution of medications from a medicine preparation room or area, from a self-contained medicine dispensing unit, or by another approved system.
2. The medication preparation room or area shall:
    a. be under the visual control of the staff; and
    b. contain the following:
        i. a work counter;
        ii. a hand-washing station;
        iii. a lockable refrigerator; and
        iv. a locked storage for controlled drugs.
3. When a medication preparation room or area is to be used to store self-contained medication dispensing units, the room shall be designed with adequate space to prepare medicines with the self-contained medicine-dispensing units present.

G. Self-Contained Medication-Dispensing Unit

1. The location of a self-contained medicine-dispensing unit shall be permitted in the clean workroom or in an alcove, provided the ABU has adequate security for medications and adequate lighting to easily identify drugs.

2. The self-contained medicine-dispensing unit shall provide convenient access to hand-washing stations.

H. Nourishment Area

1. A nourishment area shall have the following:

a. a sink;

b. a work counter;

c. a refrigerator;

d. storage cabinets;

e. equipment for hot and cold nourishment;

f. provisions and space for separate temporary storage of unused and soiled dietary trays not picked up during meal time; and

g. immediate accessible hand-washing stations in or near the nourishment area.

2. Ice-making equipment shall:

a. be provided for treatments and nourishment;

b. be permitted in the clean workroom or the nourishment room; and

c. ice intended for human consumption shall be provided in the nourishment station and shall be served from self-dispensing ice-makers.

I. A clean workroom shall be separate from and have no direct connection with soiled workrooms or soiled holding rooms.

1. If the room is used for preparing care items for mothers and newborns, it shall contain:

a. a work counter;

b. a hand-washing station; and

c. storage facilities for clean and sterile supplies and equipment.

2. Storage for hazardous cleaning solutions, compounds, and substances shall be labeled and kept in an enclosed storage area or approved cabinet separate from other cleaning materials.

J. A soiled workroom or soiled holding room shall be separate from and have no direct connection with clean work rooms or clean supply rooms.

1. A soiled workroom or soiled holding room shall contain:

a. a clinical sink (or equivalent flushing rim fixture) and a hand-washing station; and

b. a work counter and space for separate covered container for soiled linen and a variety of waste types.

2. Omission of the clinical sink and work counter shall be permitted in rooms used only for temporary holding of soiled material. If the flushing-rim clinical sink is not provided, the facilities for cleaning bedpans shall be provided in the mothers' toilet rooms.

K. Environmental Services Room. An environmental services room shall be provided for the exclusive use of the ABU and include:

1. a service sink or floor receptor; and

2. a space for storage of supplies, housekeeping equipment, and housekeeping carts.

L. Examination Rooms. An examination room shall:

1. preserve patient privacy from outside observation;

2. be located convenient to nursing the station;

3. have a bathroom immediately accessible that includes:

a. ventilation with a minimum of 10 air changes per hour; and

b. have an exhaust;

4. have a hand-washing station;

5. have the following space requirements:

a. a minimum clear floor area of 80 square feet;

b. a minimum continuous clearance of 2 feet 8 inches at each side of the examination table; and

c. have counter and shelf space;

6. have ventilation with a minimum of six air changes per hour;

7. have lighting with fixed and portable features; and

8. have an examination table with access to at least two duplex receptacles.

M. Support areas provided for staff shall include:

1. a changing room;

2. a lounge;

3. a bathroom; and

4. securable lockers, closets and cabinet compartments.

N. Engineering and maintenance services shall have sufficient space for mechanical and electrical equipment and for the proper maintenance of equipment.

O. Building Codes and Architectural Details

1. The facility shall meet the business occupancy provisions of applicable life safety and building codes.

2. Corridors shall have a minimum corridor width of 5 feet and minimum height of 7 feet 8 inches.

3. Ceilings shall have a minimum height of 7 feet 10 inches with the following exceptions:

a. ceilings heights for storage rooms, toilet rooms, etc. shall not be less than 7 feet 8 inches; and

b. rooms containing ceiling mounted equipment/light fixtures shall be of sufficient height to accommodate the equipment or fixtures and normal movement.

4. Birthing Room Surfaces. Birthing room surfaces shall have:

a. finishes selected to facilitate cleaning and to resist strong detergents; and

b. finishes in the dietary area to ensure the ability to be cleaned and disinfected.

P. Building Systems

1. Heating, ventilation and air-conditioning, electrical, plumbing and related systems shall meet state and local building codes.

2. Heating, ventilation and air-conditioning systems in the environmental services (housekeeping) room shall be exhausted at a rate consistent with approved infection control guidelines.

Q. Electrical Systems

1. Lighting shall:

a. provide both subdued indirect lighting and special lighting capable of providing at least 70 foot-candles in the delivery and newborn care area(s); and

b. have emergency lighting available.

R. Oxygen and vacuum outlets shall be available.

1. Use of portable equipment shall be permitted.

S. Security systems shall be designed for active and passive security systems. Locking arrangements, security alarms, and monitoring devices shall be placed not to interfere with the life safety feature necessary to operate and maintain a healthy and functional environment.

T. Elevators shall be equipped with a cab with minimum dimensions of 5 feet 8 inches wide by 7 feet 6 inches deep.

U. Corridors, attics, and passageways shall be free of storage. Exits shall not be blocked by storage of furniture or equipment at any time.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9561. Equipment

A. The governing body and medical staff shall specify the types of equipment that is required for an ABU. This shall include at a minimum:

1. emergency equipment including:
   a. an adult emergent care cart labeled and stocked accordingly; and
   b. a neonatal emergent care cart labeled and stocked accordingly;
2. equipment and supplies used for labor and delivery including:
   a. fetal heart rate doppler, fetoscope, and/or external fetal monitor;
   b. a birthing tub; and
   c. a bed;
3. equipment and supplies used for the newborn including:
   a. a newborn crib, bassinet or newborn examination unit; and
   b. calibrated newborn scales;
4. oxygen and supplies;
5. pulse oximetry supplies;
6. suction and supplies for mother and newborn;
7. maternal and newborn airways;
8. a wall clock synchronized with hospital system;
9. supplies for unique identification of mother and newborn;
10. a secure medication dispensing system;
11. emergency call and lighting systems; and
12. ancillary support equipment as needed.

B. The facility shall have a newborn abduction emergency alert system.

C. All hand-washing facilities shall be equipped with hands-free handles, disposable soap dispenser, paper towel dispenser and trash receptacle.

D. Vertical and horizontal transport systems shall be operated and maintained in a manner to provide for safe transport.

E. The facility shall have functional emergency communication, including:

1. telephone;
2. nurse call; and
3. internal/external paging system.

F. An ABU shall have storage for hazardous cleaning solutions, compounds, and substances.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9563. Services

A. The ABU shall have patient care services policies that delineate the organization of the unit, qualifications of the staff and requirements for staff to patient ratio.

B. Unit Organization

1. Care in an ABU shall be under the direction of a CNM.
   a. A CNM and a registered nurse shall be available per hospital on call policy to ensure 24-hour coverage for patient care.
   b. Qualified professional clinical staff shall monitor the patient's progress in labor with ongoing assessments of maternal/fetal reactions to the process of labor, within accepted professional standards.
2. Authority and responsibilities of all patient care staff shall be clearly defined in written policies.
3. The functions of the ABU shall be under the direction of perinatal services. These functions shall include, but are not limited to:
   a. the development, implementation, enforcement, monitoring, and annual review of policies and procedures related to patient care;
   b. the orientation and training of qualified staff for provision of care; and
   c. provisions for current educational and reference materials.

C. Staff Qualifications

1. The CNM shall provide documentation of current licensure and certification, as required by the Louisiana State Board of Nursing (LSBN). The documentation shall be maintained as part of the credential file for each CNM.
2. Licensed nursing personnel shall practice in accordance with the Louisiana State Nurse Practice Act and demonstrate current licensure by LSBN.
3. All clinical staff of the ABU shall be required to provide documentation of training and continued competence in Adult Basic Cardiopulmonary Life Support (BCLS) and Neonatal Resuscitation Program (NRP) or its equivalent.
4. Documented, dated, and signed demonstration of skills competencies shall be maintained in the personnel file for each staff member.

D. Requirements for Staff to Patient Ratio

1. A CNM must be present at all times while a laboring patient is in the ABU.
2. A registered nurse (RN) shall provide 1:1 maternal care during labor, delivery and post-delivery.
3. There shall be sufficient professional and support staff on duty and on call to meet the following patient's needs:
   a. for services routinely provided;
   b. to assure patient safety and satisfaction; and
   c. to ensure that no patient in active labor is left unattended.
4. During the second stage of labor, 2:1 patient care is required, with one of the clinical staff being a CNM and one other RN.
5. Staffing per shift shall be based on acuity and census of the ABU.
6. Each RN shall be responsible for 1:1 labor care and/or 1:2 couplet care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9565. Medical Records Requirements

A. The medical record of the mother and newborn shall include, but not be limited to, the following documentation:

1. informed consent signed by the patient and the CNM;
2. demographic and patient information;
3. family, medical, social, reproductive, nutrition and behavioral history;
4. initial maternal assessment and examination;
5. evaluation of maternal/fetal risk factors;
6. written orders for maternal/fetal and newborn care;
7. laboratory and/or diagnostic test results;
8. documentation of maternal/fetal and newborn monitoring;
9. postpartum assessments;
10. physical assessment of newborn, e.g., Apgar score, weights, measurements;
11. labor and discharge summaries; and
12. educational instructions for postpartum and newborn home care, follow ups, and referrals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§9567. Pharmaceutical Services

A. The ABU shall follow hospital policies and procedures for pharmaceutical services regarding the procurement, storage, distribution and control of all medications. The ABU shall be in compliance with all local, state, and federal regulations.

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

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 and autonomy as described in R.S. 49:972 by assuring the safe operation of alternative birthing units within licensed hospitals.

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 and community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, April 24, 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: Hospital Licensing Standards Alternative Birthing Units

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 $2,296 (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 proposes to amend the provisions governing hospital licensing standards to adopt provisions for alternative birthing units within hospitals. It is anticipated that implementation of this proposed rule will not have economic costs since the licensing fees have not changed, but may benefit hospitals for FY 13-14, FY 14-15, and FY 15-16 if the hospital opts to provide an alternative birthing unit within the qualified hospital.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition but could have a positive effect on the employment of nurse midwives.

Cecile Castello
Health Standards Section Director
1403#063

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Coverage of Long-Acting Reversible Contraceptives
(LAC 50:V.113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.113 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 provides Medicaid coverage and reimbursement for inpatient hospital services. Participating

hospitals are reimbursed a daily per diem rate that includes all inpatient services rendered to Medicaid eligible individuals.

The department now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to establish Medicaid reimbursement for long-acting reversible contraceptive (LARC) devices provided to women in the hospital after the delivery of an infant(s). Coverage of LARC devices during the hospital stay ensures that Medicaid eligible women will have access to long-acting contraceptives immediately following childbirth.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 1. General Provisions

§113. Coverage of Long-Acting Reversible Contraceptives

A. The Medicaid Program shall provide reimbursement to acute care hospitals for long-acting reversible contraceptives (LARCs) provided to women immediately following childbirth and during the hospital stay.

B. Reimbursement. Hospitals shall be reimbursed for LARCs as an add-on service in addition to their daily per diem rate for the inpatient hospital stay.

1. Physicians/professional practitioners who insert the device will also be reimbursed an insertion fee in accordance with the reimbursement rates established for this service in the Professional Services 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 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 by increasing access to long-term birth control after childbirth.

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 by reducing the costs to women and their families for long-term birth control after childbirth.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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 Thursday, April 24, 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: Inpatient Hospital Services Coverage of Long-Acting Reversible Contraceptives

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in net state general fund programmatic savings in FY 13-14. Costs associated with long-acting reversible contraceptives will be directly offset by a larger savings realized from a reduction in expenditures in the Pharmacy and Professional Services Programs. Long-acting reversible contraceptive (LARC) devices are already covered in those programs and utilization is expected to decrease as a result of this proposed Rule. It is anticipated that $246 ($123 SGF and $123 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 $123 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 establishes Medicaid reimbursement to hospitals for LARC devices provided to women immediately following childbirth. It is anticipated that implementation of this proposed rule will not have economic costs, but may benefit acute care hospitals for FY 13-14, FY 14-15 and FY 15-16 if the service is rendered in an inpatient hospital setting. There is an expected net reduction in Medicaid costs by an indeterminable amount due to a corresponding reduction in costs in the Pharmacy and Professional Services Programs.

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
1403#064	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Triage Fees for Non-Emergent Care
(LAC 50:V.5115)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.5115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed 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 provides Medicaid coverage and reimbursement of outpatient hospital services rendered by emergency departments of acute care hospitals.

The department proposes to adopt provisions in the hospital program to establish a triage fee for outpatient services rendered by hospital emergency departments when it is determined that the services provided were for treatment of a non-emergent condition. The triage fee will be at a lower rate than that for treatment of emergent conditions. This is expected to reduce the escalating cost associated with the treatment of non-emergent conditions and will also deter inappropriate use of hospital emergency departments.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospitals
Subpart 5. Outpatient Hospitals
Chapter 51. General Provisions
§5115. Triage Fees for Non-Emergent Care

A. The Medicaid Program shall establish a special triage fee to reimburse outpatient services rendered by hospital emergency departments when it is determined that the services provided are for the treatment of a non-emergent condition.

B. The triage fee shall be an established flat rate which covers the facility fee and any testing and/or supplies that are associated with the non-emergent visit. The established rate shall be lower than the rates paid for the treatment of an emergent condition.

C. The department shall use the "prudent layperson standard" to determine if a visit to an emergency room was appropriate as a result of an emergency medical condition. For purposes of these provisions, an emergency medical condition shall be defined as follows.

1. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a "prudent layperson", who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

a. placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

b. serious impairment of bodily functions; or

c. serious dysfunction of any bodily organ or part.

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:

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 by directing care to a provider who is familiar with the family member's history and current medications/treatment regimen and will increase the quality and continuity of care for the individual and the entire family.

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 by reducing the financial costs associated with recovery when a family's care is rendered by a provider who is familiar with the family member's history and current medications/treatment regimen.

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 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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 Thursday, April 24, 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 Triage Fees for Non-Emergent Care

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 costs of $164 for FY 13-14 and savings of approximately $1,593,841 for FY 14-15 and $1,791,369 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 increase federal revenue collections by $164 for FY 13-14 and reduce federal revenue collections by approximately $2,607,110 for FY 14-15 and $2,928,972 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 adopts provisions in the Hospital Program to establish a triage fee for outpatient services rendered by hospital emergency departments when it is determined that the services provided were for treatment of a non-emergent condition. It is anticipated that implementation of this proposed Rule will reduce Medicaid Program expenditures by approximately $4,200,951 for FY 14-15 and $4,720,341 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
1403#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Plumbing Fixtures, Water Supply and Distribution, and Referenced Standards (LAC 51:XIV.411, 609, and 1403)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH, OPH), intends to amend Part XIV (Plumbing) of the Louisiana State Sanitary Code [LAC 51 (Public Health—Sanitary Code)]. This amendment will provide an exception for certain small retail stores to have a drinking fountain installed and available for public use. This exception will only be applicable to retail stores having 2,000 square feet or less of usable floor space.

When meeting certain specified criteria, the proposed Rule will provide a waiver to the normal requirement calling for the installation of a containment device backflow preventer for multiple residential dwelling units served by a master meter. This proposed waiver is only applicable to multiple residential dwelling units when serving only two units and their water service or water distribution lines are connected together by a master water meter.

Additionally, the proposed Rule corrects several typographical errors contained in the 2013 publication of LAC 51:XIV (Plumbing). The first involves a single word typographical omission on earlier versions of Table 411 relative to the calculation of the number of lavatories when over 750 persons are served in assembly type occupancies. The second correction involves referencing metal plating plants (instead of meat plating plants) in Table 609.F.5.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XIV. Plumbing
Chapter 4. Plumbing Fixtures
§411. Minimum Plumbing Fixtures

A. - A.10. …

Table 411
Minimum Plumbing Fixtures
[The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof, i.e., if the calculation yields any fraction (no matter how small), the next whole number greater than the fractional number is the minimum fixture requirement]

Building or Occupancy[1]	Occupant Content[1]	Water Closets (Urinals can be substituted for up to half of the required water closets)	Lavatories[2]	Bathtubs, Showers and Miscellaneous fixtures
Dwelling or Apt. House	Not Applicable	1 for each dwelling or dwelling unit	1 for each dwelling or dwelling unit	Washing machine connection per unit[3]. Bathtub or shower – one per dwelling or dwelling unit. Kitchen sink – one per dwelling or dwelling unit

Table 411
Minimum Plumbing Fixtures
[The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof, i.e., if the calculation yields any fraction (no matter how small), the next whole number greater than the fractional number is the minimum fixture requirement]

Building or Occupancy[1]	Occupant Content[1]	Water Closets (Urinals can be substituted for up to half of the required water closets)			Lavatories[2]			Bathtubs, Showers and Miscellaneous fixtures
Schools: Licensed Pre-School, Day Care or Nursery[21]	Maximum Daily Attendance	Children (total)		Fixtures	To be provided in the same proportions as the number of water closets required			Kitchen: Children (total) 7-15: 3 compartment sink (or approved domestic or commercial dishwashing machine and a 2 compartment sink)[12] 16 - up: 3 compartment sink (dishwashing machine, if provided, must be a commercial type)[12] One laundry tray, service sink, or curbed cleaning facility with floor drain on premises for cleaning of mops/mop water disposal. Caring for Infants: One extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicate solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas.
		Age 0-4 years			Kitchen:			
		1-20		1	1 in each food preparation and utensil washing area located to permit convenient use by all food and utensil handlers.			
		21-40		2				
		41-80		3				
		For each additional 40 children over 80, add		1	Caring for Infants: 1 in or adjacent to each diaper changing area but never to be located in a food preparation/storage or utensil washing area.			
		Age 5 years and above						
			Male	Female				
		1-40	1	1				
		41-80	1	2				
		81-120	2	3				
		121-160	2	4				
		For each additional 40 females over 160, add		1				
		For each additional 80 males over 160, add	1					
Schools: Elementary and Secondary	Maximum Daily Attendance	Persons (total)	Male	Female	Persons (total)	Male	Female	One drinking fountain for each 3 classrooms, but not less than one each floor
		1-50	2	2	1-120	1	1	
		51-100	3	3	121-240	2	2	
		101-150	4	4	For each additional 120 persons over 240, add	1	1	
		151-200	5	5				
		For each additional 50 persons over 200, add	1	1				
Office[4] and Public Buildings (Applies to educational occupancies above the 12th grade$_{(L)}$)	100 sq ft per person	Persons (total)	Male	Female	Persons (total)	Male	Female	Drinking Fountains Persons / Fixtures
		1-15	1	1	1-15	1	1	1-100 / 1
		16-35	1	2	16-35	1	2	101-250 / 2
		36-55	2	2	36-60	2	2	251-500 / 3
		56-100	2	3	61-125	2	3	No less than one fixture each floor subject to access.
		101-150	3	4	For each additional 120 persons over 125, add	1	1.5	
		For each additional 100 persons over 150, add	1	1.5				

Table 411
Minimum Plumbing Fixtures
[The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof, i.e., if the calculation yields any fraction (no matter how small), the next whole number greater than the fractional number is the minimum fixture requirement]

Building or Occupancy[1]	Occupant Content[1]	Water Closets (Urinals can be substituted for up to half of the required water closets)			Lavatories[2]			Bathtubs, Showers and Miscellaneous fixtures	
								Drinking Fountains	
		Persons (total)	Male	Female	Persons (total)	Male	Female	Persons	Fixtures
Common toilet facilities for areas of commercial buildings of multiple tenants[5,6,20]	Use the sq ft per person ratio applicable to the single type occupancy(s) occupying the greatest aggregate floor area (Consider separately each floor area of a divided floor)	1-50	2	2	1-15	1	1	1-100	1
		51-100	3	3	16-35	1	2	101-250	2
		101-150	4	4	36-60	2	2	251-500	3
		For each additional 100 persons over 150, add	1	1.5	61-125	2	3	501-1000	4
(Not applicable to do-it-yourself laundries, beauty shops and similar occupancies where persons must remain to receive personal services)					For each additional 120 persons over 125, add	1	1.5	Not less than one fixture each floor subject to access.	
								Drinking Fountains[18]	
Retail Stores [4,14,16, 18]	200 sq ft per person	Persons (total)	Male	Female	Persons (total)	Male	Female	Persons	Fixtures
		1-35	1	1	1-35	1	1	1-100	1
		36-55	1	2	36-55	1	2	101-250	2
		56-80	2	3	56-80	2	3	251-500	3
		81-100	2	4	81-100	2	4	501-1000	4
		101-150	2	5	101-150	2	5		
		For each additional 200 persons over 150, add	1	1.75	For each additional 200 persons over 150, add	1	1.75	Not less than one fixture each floor subject to access.	
					Retail Food Markets that also processes or packages meat or other food items: 1 lavatory in each food processing, packaging, and utensil washing area located to permit convenient use by all food and utensil handlers.			All Retail Food Markets: One laundry tray, service sink, or curbed cleaning facility with floor drain on premises for cleaning of mops/mop water disposal. Retail Food Markets that also processes or packages meat or other food items: 3 compartment sink[12]	
								Drinking Fountains[17]	
Restaurants/Food Service Establishments[4,11, 16, 17]	30 sq ft per person	Persons (total)	Male	Female	Persons (total)	Male	Female	Persons	Fixtures
		1-50	1	1	1-150	1	1	1-100	1
		51-100	2	2	151-200	2	2	101-250	2
		101-200	3	3	201-400	3	3	251-500	3
		201-300	4	4	For each additional 200 persons over 400, add	1	1		
		For each additional 200 persons over 300, add	1	2				Kitchen: 3 compartment sink (dishwashing machine, if provided, must be a commercial type)[12]	
(If alcoholic beverages are to be served, facilities shall be as required for clubs or lounges- See LAC 51:XXIII.3119.B. 2 for further details)					Kitchen: 1 lavatory in each food preparation and utensil washing area located to permit convenient use by all food and utensil handlers.			Other Fixtures: One laundry tray, service sink, or curbed cleaning facility with floor drain on premises for cleaning of mops/mop water disposal.	

Table 411
Minimum Plumbing Fixtures
[The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof, i.e., if the calculation yields any fraction (no matter how small), the next whole number greater than the fractional number is the minimum fixture requirement]

Building or Occupancy[1]	Occupant Content[1]	Water Closets (Urinals can be substituted for up to half of the required water closets)			Lavatories[2]			Bathtubs, Showers and Miscellaneous fixtures	
								Drinking Fountains[17]	
		Persons (total)	Male	Female	Persons (total)	Male	Female	Persons	Fixtures
Clubs, Lounges, and Restaurants/ Food Service Establishments with Club, or Lounge[11,16, 17]	30 sq ft per person	1-25	1	1	1-150	1	1	1-100	1
		26-50	2	2	151-200	2	2	101-250	2
		51-100	3	3	201-400	3	3	251-500	3
		101-300	4	4				501-1000	4
		For each additional 200 persons over 300, add	1	2	For each additional 200 persons over 400, add	1	1	Bar: 3 compartment sink (dishwashing machine, if provided, must be a commercial type)[12]	
					Bar: 1 lavatory in each drink preparation area and utensil washing area located to permit convenient use by all drink and utensil handlers.			Other Fixtures: One laundry tray, service sink, or curbed cleaning facility with floor drain on premises for cleaning of mops/mop water disposal.	
Do it yourself Laundries[4]	50 sq ft per person	Persons (total)	Male	Female	Persons (total)	Male	Female	One drinking fountain and one service sink.	
		1-50	1	1	1-100	1	1		
		51-100	1	2	101-200	2	2		
Beauty Shops, Barber shops, nail Salons, and Tanning Facilities[4]	50 sq ft per person	Persons (total)	Male	Female	Persons (total)	Male	Female	One drinking fountain and one service sink or other utility sink.	
		1-35	1	1	1-75	1	1		
		36-75	1	2					
Heavy manufacturing[7], warehouses[8], foundries, and similar establishments[9,10]	Occupant content per shift, substantiated by owner. Also see §411.B.2 of this code	Persons (total)	Male	Female	Persons (total)	Male	Female	One drinking fountain for each 75 persons. One shower for each 15 persons exposed to excessive heat or to skin contamination with poisonous, infectious, or irritating material.	
		1-10	1	1	1-15	1	1		
		11-25	2	1	16-35	2	1		
		26-50	3	1	36-60	3	1		
		51-75	4	1	61-90	4	1		
		76-100	5	1	91-125	5	1		
		For each additional 60 persons over 100, add	1	0.1	For each additional 100 persons over 125, add	1	0.1		
					Where there is exposure to skin contamination with poisonous, infectious, or irritating materials, provide 1 lavatory for each 15 persons.				
Light manufacturing[7], Light Warehousing[8], and workshops, etc.[9,10]	Occupant content per shift, substantiated by owner. Also see §411.B.2 of this code	Persons (total)	Male	Female	Persons (total)	Male	Female	One drinking fountain for each 75 persons. One shower for each 15 persons exposed to excessive heat or to skin contamination with poisonous, infectious, or irritating material.	
		1-25	1	1	1-35	1	1		
		26-75	2	2	36-100	2	2		
		76-100	3	3	101-200	3	3		
		For each additional 60 persons over 100, add	1	1	For each additional 100 persons over 200, add	1	1		
					Where there is exposure to skin contamination with poisonous, infectious, or irritating materials, provide 1 lavatory for each 15 persons				

Table 411
Minimum Plumbing Fixtures
[The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof, i.e., if the calculation yields any fraction (no matter how small), the next whole number greater than the fractional number is the minimum fixture requirement]

Building or Occupancy[1]	Occupant Content[1]	Water Closets (Urinals can be substituted for up to half of the required water closets)			Lavatories[2]			Bathtubs, Showers and Miscellaneous fixtures	
Dormitories (For exclusively male or female dorms, the fixtures provided shall be double the amount required for the particular gender in a co-ed dorm)	50 sq ft per person (calculated on sleeping area only)	Persons (total)	Male	Female	Persons (total)	Male	Female	One drinking fountain for each 75 persons. One shower or bathtub for each 8 persons, over 150 persons add 1 shower or bathtub for each additional 20 persons. One laundry tray or washing machine for each 50 persons. Service sinks, 1 for each 100 persons.	
		1-10	1	1	1-12	1	1		
		11-30	1	2	13-20	2	2		
		31-100	3	4					
		For each additional 50 persons over 100, add	1	1	For each additional 30 persons over 20, add	1	1		
Places of Public Assembly without seats and Waiting Rooms at Transportation Terminals and Stations	70 sq ft per person (calculated from assembly area.) Other areas considered separately (see Office or Public Buildings).	Persons (total)	Male	Female	Persons (total)	Male	Female	Drinking Fountains Persons	Drinking Fountains Fixtures
		1-50	2	2	1-200	1	1	1-100	1
		51-100	3	3	201-400	2	2	101-350	2
		101-200	4	4	401-750	3	3		
		201-400	5	5				Over 350 add one fixture for each 400.	
		For each additional 250 persons over 400, add	1	2	Over 750 persons, lavatories for each sex shall be required at a number equal to not less than 1/2 of total of required male water closets and urinals.				
Theaters, Auditoriums, Stadiums[15], Arenas[15], and Gymnasiums	Use the number of seats as basis (For pew or bench type seating, each 18 inches of pew or bench shall equate to one person)	Persons (total)	Male	Female	Persons (total)	Male	Female	Drinking Fountains Persons	Drinking Fountains Fixtures
		1-50	2	2	1-200	1	1	1-100	1
		51-100	3	3	201-400	2	2	101-350	2
		101-200	4	4	401-750	3	3		
		201-400	5	5				Over 350 add one fixture for each 400.	
		For each additional 250 persons over 400, add	1	2	Over 750 persons, lavatories for each sex shall be required at a number equal to not less than 1/2 of total of required male water closets and urinals.				
Churches, Mosques, Synagogues, Temples, and other places of Worship	Use the number of seats as basis (For pew or bench type seating, each 18 inches of pew or bench shall equate to one person)	Persons (total)	Male	Female	Persons (total)	Male	Female	Drinking Fountains Persons	Drinking Fountains Fixtures
		1-70	1	1	1-200	1	1	1-100	1
		71-150	2	2	201-400	2	2	101-350	2
		151-500	3	3	401-750	3	3		
		For each additional 500 persons over 500, add	1	1	Over 750 persons, lavatories for each sex shall be required at a number equal to not less than 1/2 of total of required male water closets and urinals.			Over 350 add one fixture for each 400.	
Retail Fuel Stations (Along an Interstate highway when the station property is located within ½ mile of the nearest toe[19] of the exit/entrance ramp)[16]	Use the number of Fueling Points[13] as the basis	Fueling Points	Male	Female	Fueling Points	Male	Female	Drinking Fountains Fueling Points	Drinking Fountains Fixtures
		1-8	1	1	1-12	1	1	1-12	1
		9-12	2	2	13 or more	1	2	13 or more	2
		13 or more	2	3					

Table 411 Minimum Plumbing Fixtures [The figures shown are based upon one fixture being the minimum required for the number of persons indicated or any fraction thereof, i.e., if the calculation yields any fraction (no matter how small), the next whole number greater than the fractional number is the minimum fixture requirement]									
Building or Occupancy[1]	**Occupant Content[1]**	**Water Closets (Urinals can be substituted for up to half of the required water closets)**			**Lavatories[2]**			**Bathtubs, Showers and Miscellaneous fixtures**	
								Drinking Fountains	
Retail Fuel Stations not meeting above criteria[16]	Use the number of Fueling Points[13] as the initial basis	Fueling Points	Male	Female	Fueling Points	Male	Female	Fueling Points	Fixtures
		1 or more	1	1	1 or more	1	1	1 or more	1
Other Miscellaneous Buildings or Occupancies[22]									

NOTES:

1. - 17. …

18. Drinking fountains shall not be required in retail stores with 2,000 square feet or less of usable floor space.

19. "Toe" is defined as the point where the Interstate highway's exit/entrance ramp meets the intersecting highway. See §203 of this Code—Toe definition.

20. Central facilities shall be installed such that the path of travel to such facilities shall not exceed a distance of 500 feet. The maximum travel distance to the central toilet facilities shall be measured from the main entrance of any store or tenant space. See §411.A.5 of this Code.

21. For pre-school children, between the ages of 0-4, fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided. See LAC 51:XXI.105.C.5.a.

22. Refer to the following Parts of the Louisiana State Sanitary Code (LAC 51) for specific information relative to the number of plumbing fixtures required for these other miscellaneous buildings or occupancies:

* * *

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(7) and R.S. 40:5(2)(3)(7)(9)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2816 (November 2012), repromulgated LR 39:511 (March 2013), amended LR 40:

Chapter 6. Water Supply and Distribution

§609. Protection of Potable Water Supply

A. - F.5.a. ...

Table 609.F.5 (Containment)
Air Gap
* * *
Reduced Pressure Principle Backflow Prevention Assembly
* * *
8. Metal Plating Plants
* * *
Pressure Vacuum Breaker Assembly/ Spill Resistant Vacuum Breaker Assembly
* * *
Double Check Valve Assembly
* * *
2. Multiple Residential Dwelling Units served by a master meter ~~-~~(see below—Clause 5.a.i of this Subsection)
* * *

i. For multiple residential dwelling units served by a master meter serving only two units, containment protection may be waived by the water supplier when a cross connection control survey is performed on the premises by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120 (or other individuals holding a surveyor certificate from a nationally recognized backflow certification organization approved by the state health officer) at least once every five years and the surveyor determines no hazards exist requiring containment protection.

5.b. - 9.d.iv. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(7) and R.S. 40:5(2)(3)(7)(9)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2835 (November 2012), amended LR 40:

§1403. Referenced Standards

A. ...

Standard Designation	Section/Table
* * *	
ASSE 5120-2009, Backflow Prevention Assembly Surveyor Professional Qualifications Standard (part of ASSE Series 5000, Cross-Connection Control Professional Qualifications Standard)	607.C, 609.F.5.a.i
* * *	

*ANSI designated as an American National Standard

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(7) and R.S. 40:5(2)(3)(7)(9)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2886 (November 2012), amended LR 40:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for amendment. There is no effect anticipated on the stability of the family, the authority and rights of parents regarding education and supervision of their children, the functioning of the family, or the behavior and responsibility of children. No effect on family earning and family budget is anticipated for most families. However, those families affected by the proposed Rule (i.e., those

families involved in opening a retail store with 2,000 square feet or less of usable floor space) will see some economic savings as a result of not having to purchase and install a drinking water fountain. In addition, those families residing in a multiple residential dwelling unit consisting of only two units and both units' water service or water distribution lines are interconnected and served by a master water meter could realize an economic savings as a result of not having to purchase, install, and annually test a containment device backflow preventer for the two unit residence. There will be no effect on the ability of the family to perform the functions contained in the rule relative to the drinking fountain exception. Local government building officials and building inspectors will have to realize such a drinking fountain exception exists for small retail store occupancies and apply it accordingly. In order to obtain a waiver for the installation of a containment device backflow preventer for a two unit multiple residential dwelling unit served by a master meter, families seeking an exception for the need to install this device may have to hire a qualified individual every five years to ensure that no cross connection hazard exists. In certain local governmentally owned water districts or municipal water systems, the water system itself may decide to provide this service to its customers on behalf of the affected families. Regardless, the officials of the local governmentally owned water districts or municipal water systems will be expected to enforce the need for a containment device backflow preventer or authorize an exception allowed under this proposed rule in order to adequately protect the water system's water supply from possible contamination.

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 amendment. The proposed Rule change will result in an economic benefit to those persons directly affected by the proposed Rule. The proposed Rule is expected to provide some economic relief (estimated $500 to $1,500) to small retail store owners in the form of a reduction in startup costs by not having to purchase and install a drinking water fountain in their building. In addition, OPH estimates a cost savings of $850-$950 for the first five years and $550 for every subsequent five year interval for those individuals qualifying for a waiver to install a containment device backflow preventer in a qualifying multiple residential dwelling unit served by a master meter. There will be no effect on childhood development and preschool through postsecondary education development. No effect on employment and workforce development is expected. Small retail store owners and affected homeowners would also see a one-time sales tax savings in the form of not having to purchase and install either a drinking water fountain for their small retail business or, respectively, a containment device backflow preventer for their residence. No effect is anticipated 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 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 supporting critical programs while minimizing the adverse impact of the proposed Rule on small businesses. The adoption of the proposed amendment will reduce the economic impact on start-up costs for small retail store owners and will also reduce the economic impact for certain multiple residential dwelling units when serving only two units and their water service or water distribution lines are connected together by a master water meter.

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, April 29, 2014 at COB, 4:30 p.m., and should be addressed to Jake Causey, Chief Engineer, Engineering Services Section, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin # 3, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street, Room 134, Baton Rouge, LA 70802.

Public Hearing

DHH, OPH will conduct a public hearing at 10 a.m. on Monday, April 28, 2014, in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the seven-story Galvez Parking Garage which is located between North Sixth and North Fifth/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.

Jimmy Guidry, M.D.
State Health Officer
and
Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Plumbing Fixtures, Water Supply and Distribution, and Referenced Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Office of Public Health (OPH) proposes to amend Tables 411 (Minimum Fixture Requirements) and 609.F.5 (Containment) of LAC 51:XIV (Plumbing).

The first provision of this proposed rule will add an exception for the installation of drinking fountains in retail stores with 2,000 ft^2 or less of usable floor space.

In addition, the second provision of this proposed rule will provide a waiver to the normal requirement calling for the installation of a containment device backflow preventer for multiple residential dwelling units served by a master meter. This proposed waiver is only applicable to multiple residential dwelling units when serving only two units and their water service or water distribution lines are connected together by a master water meter.

Lastly, the third provision of this proposed rule corrects several typographical errors contained in the 2013 publication of LAC 51:XIV (Plumbing). The first error correction involves

a single word typographical omission on earlier versions of Table 411 relative to the calculation of the number of lavatories when over 750 persons are served in assembly type occupancies. The second error correction involves referencing metal plating plants (instead of meat plating plants) in Table 609.F.5.

It is not anticipated that the proposed action will result in any significant implementation costs to local governmental units.

The proposed rule changes will result in an estimated cost of $1,681 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 local governmental units anticipated as a result of promulgating the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule change will result in an economic benefit to those persons that receive an exception or waiver allowed by the proposed rule. OPH estimates a cost savings of $500 to $1,500 per retail store that receives an exception for the installation of drinking fountains as part of this proposed rule. In addition, OPH estimates a cost savings of $850 to $950 for the first five years and $550 for every subsequent five-year interval for those individuals owning multiple residential dwelling unit served by a master meter that qualify for a waiver to install a containment device backflow preventer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

J.T. Lane	John D. Carpenter
Assistant Secretary	Legislative Fiscal Officer
1403#036	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Application and License and
Enforcement Actions of the Board
(LAC 42:XI.2405 and 2424)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2405.B and LAC 42:XI.2424.B.

Title 42
LOUISIANA GAMING
Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A.1. - B.5. …

6. Upon discovery, hidden ownership, whether by counter letter or other device or agreement, whether oral or written, shall constitute grounds for immediate suspension, revocation or denial of a license or application.

7. If there is more than one owner of a company, applicants and licensees shall disclose all ownership interests in the company so that the aggregate of percentages of individual ownership totals 100 percent.

8. All licensees shall attend all hearings, meetings, seminars and training sessions required by the division. The division shall not be responsible for any costs incurred by the licensees.

9. All licensees shall maintain compliance with all applicable federal gambling law requirements, including any registration required by the provisions of chapter 24 of title 15 of the *United States Code* (§1171 et seq.), which govern the transportation of gambling devices.

10.a. All licensees shall continue to operate the business described in the application during the term of the license. In the event either the business or the video draw poker devices at the location are not in operation for a period of 30 consecutive calendar days during which the business would normally operate, the licensee and device owner shall immediately notify the division of such fact and the licensee shall immediately surrender its license to the board or division.

b. If surrendered in accordance with §2405.B.10.a, no gaming activities may be conducted at the premises unless and until the license is returned to the licensee.

c. The license may be returned to the licensee when business operations are resumed for the unexpired term of the license provided that the license has not been revoked and is not under suspension and further provided that no more than 180 days has elapsed from the date the license was surrendered.

d. Licenses surrendered in accordance with §2405.B.10.a shall not be subject to renewal unless the license has been returned to the licensee.

e. Failure to surrender the license as provided in §2405.B.10.a shall constitute grounds for revocation or suspension of the license.

11.a. Within 15 days following a force-majeure event which has not affected video poker operation but necessitates closing any part of the licensed entity in order to make repairs, a licensee shall notify the division which may, following an on-site inspection to evaluate damage to the premises, grant the licensee a 60-day waiver from the provisions of LAC 42:XI.2405.B.10.a.

b. The division may grant one 60-day extension if it determines that the licensee has made substantial progress towards completing the necessary repairs within the original 60 day waiver period and the applicant can demonstrate a reasonable likelihood of completing the necessary repairs within the next 60 days.

c. Under no circumstances shall a licensee continue video poker operations without completing the necessary repairs and resuming normal operations for a period longer than 120 days.

C. - D.7. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR

26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:

§2424. Enforcement Actions of the Board

A. …

B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
Application and License				
* * *				
2405 B 8	Failure To Attend Required Hearings, Meetings, Etc.	500	1000	Admin Action
Video Gaming Devices				
* * *				
Revenues				
* * *				
Regulatory, Communication, and Reporting Responsibilities				
* * *				
Devices				
* * *				
Gaming Establishments				
* * *				
Code of Conduct of Licensee				
* * *				
Investigations				
* * *				
Miscellaneous				
* * *				

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2405.B and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2405.B and LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2405.B and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2405.B and LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2405.B and LAC 42:XI.2424.B are amended as the changes will not apply to small businesses.

Public Comments

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through April 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Application and Licence and Enforcement Actions of the Board

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 rule change. The proposed rule change clarifies that applicants and licensees are to disclose all ownership interests regarding video draw poker machines.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact 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 change will have no effect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones
Chairman
1403#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Distance between Devices
(LAC 42:XI.2415)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2415.C.2.

Title 42
LOUISIANA GAMING
Part XI. Video Poker
Chapter 24. Video Draw Poker
§2415. Gaming Establishments

A.1. - B.2. …

C. Placement of Devices in Licensed Establishments

1. …

2. No device shall be placed closer than 6 inches to any other device, except devices may be placed back to back or in a carousel.

C.3. - E.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:1321 (June 2000), LR 36:2047 (September 2010), LR 39:329 (February 2013), LR 40:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2415.C.2.

It is accordingly concluded that amending LAC 42:XI.2415.C.2 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2415.C.2.

It is accordingly concluded that amending LAC 42:XI.2415.C.2 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small businesses if LAC 42:XI.2415.C.2 is amended as the changes will not apply to small businesses.

Public Comments

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through April 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Distance Between Devices

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 rule change. The rule change reduces the spacing between devices located at licensed establishments due to the increase in size of the new machines, while allowing access to the devices by the division.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact 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 change will have no effect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones	Evan Brasseaux
Chairman	Staff Director
1403#044	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Operation of Video Draw Poker Devices and
Enforcement Actions of the Board
(LAC 42:XI.2407 and 2424)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to repeal LAC 42:XI.2407.A.13 and amend LAC 42:XI.2424.B.

Title 42
LOUISIANA GAMING
Part XI. Video Poker

Chapter 24. Video Draw Poker

§2407. Operation of Video Draw Poker Devices

A. - A.12.a. …

13. Repealed.

A.14. - D.16. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004), repromulgated LR 30:441 (March 2004), amended LR 33:857 (May 2007), LR 36:2046 (September 2010), LR 36:2874 (December 2010), LR 38:2936 (November 2012), repromulgated LR 38:3234 (December 2012), amended LR 40:

§2424. Enforcement Actions of the Board

A. ...

B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
Application and License				
* * *				
Video Gaming Devices				
* * *				
2407 A 13	Repealed.			
* * *				
Revenues				
* * *				
Regulatory, Communication, and Reporting Responsibilities				
* * *				
Devices				
* * *				
Gaming Establishments				
* * *				
Code of Conduct of Licensee				
* * *				
Investigations				
* * *				
Miscellaneous				
* * *				

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of repealing LAC 42:XI.2407.A.13 and amending LAC 42:XI.2424.B.

It is accordingly concluded that repealing LAC 42:XI.2407.A.13 and amending LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of repealing LAC 42:XI.2407.A.13 and amending LAC 42:XI.2424.B.

It is accordingly concluded that repealing LAC 42:XI.2407.A.13 and amending LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2407.A.13 is repealed and LAC 42:XI.2424.B is amended as the changes will not apply to small businesses.

Public Comments

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through April 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Operation of Video Draw Poker Devices and Enforcement Actions of the Board

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 rule change. This rule change will eliminate a class of violations which require having a current copy of the rules. These violations rarely occurred during the inspection of a licensed establishment. The rule change also amends LAC 42:XI.2424.B by removing the penalty for violating Section 2407.A.13. The licensees and permittees can access the rules and amendments to the rules through the Gaming Control Board's website.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an insignificant reduction in revenue collections for the Gaming Control Board.

The proposed rule change will not impact local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Presently, video poker licensees are required to maintain a current copy of the rules. The proposed rule will eliminate the

penalty for not maintaining a current copy of the rules. Licensees and permittees can access the rules and amendments to the rules through the Gaming Control Board's website.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones
Chairman
1403#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Revenues and Enforcement Actions of the Board
(LAC 42:XI.2409 and 2424)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2409.C and LAC 42:XI.2424.B.

Title 42
LOUISIANA GAMING
Part XI. Video Poker

Chapter 24. Video Draw Poker

§2409. Revenues

A. - B.6.d. …

C. Franchise Payments

1. All device owners shall remit to the division a franchise payment as provided for by the Act. The franchise payment shall be securely held by the device owner and shall be deemed to be held in trust for the state of Louisiana in accordance with this Subsection until such time as the franchise payment is remitted and received by the division.

2. Franchise payments shall be calculated based upon the net device revenue, as verified by the electronic (soft) meters of the device. Revenues received from franchise payments shall be electronically transferred to the designated bank of the state treasurer.

3. All device owners shall establish and maintain a single bank account exclusively for the electronic funds transfer (sweep) of franchise payments to the designated bank of the state treasurer.

a. The payments shall be transferred electronically into the designated bank of the state treasurer semi-monthly or as otherwise prescribed by the division. Licensees shall authorize the division to initiate these transfers.

b. The funds shall be electronically transferred (swept) no later than the tenth day after the fifteenth and last day of every month. Any account found with insufficient funds shall constitute a violation of this Section.

c. Electronic funds transfers shall be calculated based upon device polling from the first through the fifteenth, and the sixteenth through the last day of every month.

d. Any delinquent monies not forwarded to the bank designated by the state treasurer by electronic funds transfers at the time of the transfer shall be subject to an interest penalty of 0.000575 per day (21 percent per annum). The interest penalty shall be in addition to any other penalties imposed by the division.

4. A device owner who has a nonsufficient fund return within the past three years shall be required to maintain a minimum balance at all times in the video gaming sweep account, or the account shall at all times be secured by a line of credit or bond issued by a bank or security company acceptable to the state treasurer. For purposes of this rule the term "bond" shall include cash, cash equivalent instruments or such other instruments as the division determines provide immediate liquidity.

a. The minimum balance and the security shall be equivalent to at least 15 percent of the previous month's net device revenues of all video gaming devices of the device owner.

b. No withdrawals at any time from the device owner's video gaming account, including electronic funds transfers, shall cause the account balance to be less than the minimum balance requirement prescribed above.

5. All licensed device owners shall be liable for that portion of net device revenues from such times as the funds are received into the device until said funds are deposited into the designated bank of the state treasurer.

6. Upon failure of a device owner to remit the state's franchise payment in accordance with this Subsection, the device owner and its shareholders, officers and directors, if a corporation; its partners, if a partnership; and its managers and managing member if a limited liability company, shall be jointly and severally liable to the state of Louisiana for the franchise payment until such time as the payment is remitted and received by the division. The board may initiate collection proceedings against any party liable for the payment of the franchise fee pursuant to R.S. 27:435(D)(5) and (6).

D. - E.2.h. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:268 (February 2004), repromulgated LR 30:442 (March 2004), amended LR 38:2936 (November 2012), LR 40:

§2424. Enforcement Actions of the Board

A. …

B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
Application and License				
* * *				
Video Gaming Devices				
* * *				
Revenues				
2409 C 2d	Repealed.			
2409 C 3	Repealed.			
2409 C3d	Insufficient Funds Available For Electronic Transfer—Fine Plus Interest As Per Rule	500	1000	Admin Action

Regulation Number	Violation Description	1st	2nd	3rd
2409 C4	A Device Owner Who Has A Non-Sufficient Fund Return W/I The Past 3 Years Shall Be Required To Maintain A Minimum Balance In The Sweep Account Or Secure With A Line Of Credit Or Bond	500	1000	Admin Action
* * *				
Regulatory, Communication, and Reporting Responsibilities				
* * *				
Devices				
* * *				
Gaming Establishments				
* * *				
Code of Conduct of Licensee				
* * *				
Investigations				
* * *				
Miscellaneous				
* * *				

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2409.C and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2409.C and LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2409.C and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2409.C and LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2409.C and LAC 42:XI.2424.B are amended as the changes will not apply to small businesses.

Public Comments

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through April 10, 2014, to 1885 North 3rd Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Revenues and Enforcement Actions of the Board

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 rule change. This rule change codifies current practice and corrects previous promulgation errors as a result of Act 709 of the 2012 Regular Legislative Session. Act 709 states that video draw poker device owners shall hold franchise payments in trust until franchise payments can be remitted to the state and that device owners are responsible for the franchise payments until it is paid to the state. Also, the penalty schedule in LAC 42:XI.2424.B is being amended to reflect changes in citation of the violations from 2409.C.2d and 3 to 2409.C.3d and 4.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact 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 change will have no affect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones
Chairman
1403#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Video Draw Poker (LAC 42:XI.Chapter 24)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2401, 2403, 2405, 2407, 2409, 2413, 2415, 2417 and 2424.

Title 42
LOUISIANA GAMING
Part XI. Video Poker
Chapter 24. Video Draw Poker
§2401. Statement of Department Policy

A. The rules contained herein are promulgated by the Video Gaming Division of the Office of State Police in order to facilitate implementation of the video draw poker devices control law, R.S 27:401 et seq., to achieve the effective regulation of the video gaming industry, and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of the rules. Any subsequent restatement, repeal, or amendment of these rules shall be in accordance with the aforementioned considerations.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., the Act.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 40:

§2403. Definitions

A. The provisions of the Louisiana video draw poker devices control law relating to the definitions of words, terms, and phrases are hereby incorporated by reference and made a part hereof, and shall apply and govern the interpretation of these regulations, except as otherwise specifically declared or as is clearly apparent from the context of the regulations herein. The following words, terms, and phrases shall have the ascribed meaning indicated below.

Act—the provisions of Chapter ~~6~~ 8 of Title 27, R.S. 27:401-457 and its amendments hereafter.

* * *

Permittee—for purposes of these rules, shall have the same meaning as "video draw poker employee" as provided in R.S. 27:402.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:266 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 32:108 (January 2006), LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:

§2405. Application and License

A.1. - A.3. …

4. All applicants shall be required to disclose any violation of an administrative regulation from any jurisdiction.

5. - 5.a.i. …

(a). provides proof of application to the local governing authority of the parish where the truck stop is to be located for a certificate of compliance with applicable zoning ordinances and building codes, a statement of approval for the operation of video draw poker devices at a truck stop facility as required by R.S. 27:452(C), and has published the public notices required by R.S. 27:419; or

(b). has applied with the appropriate authority for a building permit, and has published the public notices required by R.S. 27:419.

ii. - ii.(a). …

(b). proof of publication of the notice of intent to build a qualified truck stop facility as required by R.S. 27:419(A);

(c). proof of issuance of the press release required by R.S. 27:419(D); and

a.ii.(d). - c.iii. …

d. For purposes of determining compliance with the distance requirements provided in R.S. 27:422, the date of application shall be the date the certificate of compliance was received from the applicable local governing authority or the date the application for a building permit was filed, whichever last occurred.

A.6. - D.7. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:

§2407. Operation of Video Draw Poker Devices

A. Responsibilities of Licensees

1. - 8. …

a. All promotions shall comply with the Act and these regulations as well as all federal and state laws and regulations and municipal ordinances including, but not limited to, R.S. 27:502 and the Louisiana charitable raffles, bingo and keno licensing law, R.S. 4:701 et seq. The establishment licensee, and/or the device owner conducting the promotion is/are responsible for ensuring that all promotions are in compliance with this Paragraph.

A.8.b. - D.16. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004), repromulgated LR 30:441 (March 2004), amended LR 33:857 (May 2007), LR 36:2046 (September 2010), LR 36:2874 (December 2010), LR 38:2936 (November 2012), repromulgated LR 38:3234 (December 2012), amended LR 40:

§2409. Revenues

A. License Fees

A.1. - B.5. …

6. The annual device operation fees are as follows:

a. a restaurant, bar, tavern, cocktail lounge, club, motel, or hotel, as provided in R.S. 27:435(A)(5)(a);

b. a Louisiana State Racing Commission licensed pari-mutuel wagering facility, as provided in R.S. 27:435(A)(5)(b)(i);

c. a Louisiana State Racing Commission licensed off-track wagering facility, as provided in R.S. 27:435(A)(5)(b)(ii);

d. a qualified truck stop facility, as provided in R.S. 27:435(A)(5)(c).

C. - E.2.h. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:268 (February 2004), repromulgated LR 30:442 (March 2004), amended LR 38:2936 (November 2012), LR 40:

§2413. Devices

A. Device Specifications

1. All devices shall include all of the specifications and features as provided in R.S. 27:405. In addition, all devices shall include the following specifications and features:

1.a. - 3.…

4. A valid ticket voucher shall contain all information required by R.S. 27:406. In addition, a valid ticket voucher shall contain the program name and/or software number.

A.5. - L.1.c.ii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), amended LR 25:85 (January 1999), LR 30:269 (February 2004), repromulgated LR 30:446 (March 2004), amended LR 32:109 (January 2006), LR 32:1613 (September 2006), LR 40:

§2415. Gaming Establishments

A. Establishment Licenses

1. The division may issue a license to qualified applicants based on the type of business being conducted. The types of licenses and the requirements for these licenses are as follows.

a. Type "I" License—any bar, tavern, cocktail lounge, or club only, as defined in R.S. 27:402(14) shall be designated as a type "I" establishment.

b. Type "II" License—any restaurant, as defined in R.S. 27:402(14) shall be designated as a type "II" establishment.

c. Type "III" License—a hotel or motel as defined in R.S. 27:402(8) and R.S. 27:414 shall be designated as a type "III" establishment.

d. Type "IV" License—a Louisiana State Racing Commission licensed race track, pari-mutuel wagering facility, or off-track wagering facility as defined in R.S. 27:402(10) (licensed establishment) shall be designated a type "IV" establishment.

e. Type "V" License—a qualified truck stop facility as defined in R.S. 27:417 shall be designated a type "V" establishment.

B. - C.2. …

3. No video draw poker devices which a qualified truck stop facility is licensed to operate on the premises shall be located or operated in the convenience store, trucker lounges, laundry rooms, shower rooms, and/or hallway areas of the truck stop facility. Video draw poker devices shall be located and operated in areas designated primarily for gaming, as defined in R.S. 27:401 et seq., and/or in lounges/bars and restaurants that meet the criteria of R.S. 27:401 et seq., and part II of chapter 1 or part II of chapter 2 of title 26 of the *Louisiana Revised Statutes* of 1950. In areas legally accessible to minors the device areas shall comply with the provisions of R.S. 27:430(F)(2) and LAC 42:XI.2415.D.2.

D. Structural Requirements for Licensed Establishments

1. …

2. Any licensed establishments that allow mixed patronage shall have devices for play and operation only in designated areas. These gaming areas shall be physically separated by a partition as provided in R.S. 27:430(F). The partition shall be permanently affixed and solid except for an opening to allow for player access into the gaming area.

D.3. - E.1. …

2. All applicants for a truck stop license shall comply with the distance requirements as provided in R.S. 27:422.

3. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:1321 (June 2000), LR 36:2047 (September 2010), LR 39:329 (February 2013), LR 40:

§2417. Code of Conduct of Licensees and Permittees

A. - B.3. …

4. any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including DWI; however, minor traffic violations need not be included. All licensees and permittees shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within ten calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action;

B.5. - C.1.j. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., and R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:59 (January 2001), LR 30:270 (February 2004), repromulgated LR 30:447 (March 2004), amended LR 38:2936 (November 2012), LR 40:

§2424. Enforcement Actions of the Board

A. Pursuant to R.S. 27:432 et seq., in lieu of other administrative action, the division may impose a civil penalty as provided for in the penalty schedule contained in Subsection B.

B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
Application and License				
* * *				
Video Gaming Devices				
* * *				
Revenues				
* * *				
Regulatory, Communication, and Reporting Responsibilities				
* * *				
Devices				
* * *				
Gaming Establishments				
* * *				
Code of Conduct of Licensee				
* * *				
Investigations				
* * *				
Miscellaneous				
27:402(14)	Expired ATC Permits Renewed during Investigation or Adjudication Establishments Primarily Engaged in the Retail Sale of Prepared Foods and Alcoholic Beverages Must Possess a Valid Class A-General Retail Permit or a Class A-Restaurant Permit			1000 Plus 500 For Each 30-Day (or Portion of A 30-Day) Period
27:435(F)(2)	A Non-Sufficient Fund Return	250	500	1000 or Admin Action
27:435(K)(4)(b)	Required Annual Fees Submitted after July First, but on or before July Thirty-First	Type 1 Or 2 License 250	Type 3-8 License 500	
27:435(K)(4)(c)	Required Annual Fees Submitted after July Thirty-First, but on or before August Thirty-First	Type 1 Or 2 License 500	Type 3-8 License 1000	
27:435(L)	A Complete Renewal Application Filed within 30 Calendar Days after the Expiration of the License	500		
27:443	Allowing Underage Patron to Play Video Gaming Device	1000	1000	Revocation

C. A violation shall be considered a second or subsequent violation in accordance with the provisions of R.S. 27:432.1(D)(1)(b).

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2401, 2403, 2405, 2407, 2409, 2413, 2415, 2417 and 2424.

It is accordingly concluded that amending LAC 42:XI.2401, 2403, 2405, 2407, 2409, 2413, 2415, 2417 and 2424 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2401, 2403, 2405, 2407, 2409, 2413, 2415, 2417 and 2424.

It is accordingly concluded that amending LAC 42:XI.2401, 2403, 2405, 2407, 2409, 2413, 2415, 2417 and 2424 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small businesses if LAC 42:XI.2401, 2403, 2405, 2407, 2409, 2413, 2415, 2417 and 2424 are amended as the changes will not apply to small businesses.

Public Comments

All interested persons may contact Earl Pitre, Jr., Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through April 10, 2014, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Video Draw Poker

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 rule change. This rule change codifies current practice into law as a result of Act 161 of the 2012 Regular Legislative Session. Act 161 reorganized the Video Draw Poker Devices Control Law by redesignating statutes and maintaining the same fee and penalty amounts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not impact 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 change will have no affect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones	Evan Brasseaux
Chairman	Staff Director
1403#043	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Caterer's Permits (LAC 55:VII.325)

Under the authority of R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.325 relative to caterer's permits.

The proposed amendment to the above-referenced rule is offered under the authority delegated by R.S. 26:793 to provide for a Class A-caterer's permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§325. Caterer's Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A-caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1, 2, 3 or 4 below.

1. - 3.c. …

4. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events will be allowed to obtain a Class A-caterer's permit for the premises under all of the following conditions.

a. The permit holder must have a written concession agreement to provide food and beverages concession services from the owner, operator or lessee of the premises and the permit holder must furnish all alcoholic beverages sold or served on the premises. The written concession agreement shall contain an affirmative provision disavowing the right of any party to engage in conduct prohibited by the alcoholic beverage control laws and regulations.

b. The permit holder must not be owned, in whole or in part, by the owner, operator, lessee, subsidiary, agent, or company managing the premises.

c. The permit holder must not own, in whole or part, or manage the premises.

d. The permit holder shall receive no monetary benefit, directly or indirectly, by any scheme or device or in any form or degree from the alcoholic beverage industry including a benefit in the form of capital improvements, furniture, fixtures, equipment or supplies excepted as provided in Subsection C of this Section, unless otherwise allowed in the alcoholic beverage control laws and regulations.

e. The permit holder shall not receive any direct monetary benefit from advertising, promotional or sponsorship revenues generated by operation of the premises.

f. The owner, operator, lessee, subsidiary, agent or company managing the premises nor any alcoholic beverage manufacturer or wholesaler or agent thereof shall not, directly or indirectly, control the quantity or brand of alcoholic beverages bought, sold or served by the holder of the Class A-caterer permit.

g. This Class A-caterer's permit shall not be utilized to sell, serve or otherwise engage in business as an alcoholic beverage dealer at any premises where the primary purpose is the sale of food or alcoholic beverages, including, but not limited to, a bar, nightclub, restaurant, hotel, bowling alley, pool hall, or dance hall, or any premises that derives 75 percent or more of its gross revenue from the on-premise sale of alcoholic beverages.

B.1. - B.3. …

4. A Class A-caterer issued under Paragraphs 1, 2 and 3 of Subsection A of this Section must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

B.5. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:2631 (November 2000), LR 34:1633 (August 2008), LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30 p.m. on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 in Baton Rouge, LA.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Caterer's Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendment to the above-referenced rule provides for a Class A-caterer's permit for persons who hold a written concessions agreement to provide food and beverage concession services at any arena, stadium, race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile or horse racing or entertainment events.

The establishment of a new permit is not expected to materially impact resources needed to administer the effort. Promulgation of this proposed rule and/or amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impacted parties are currently obtaining permits that adoption of the proposed rule will allow to more closely match stated missions. Fees for this permit will remain the same as the current permits. Thus, the new permit will better serve for informative purposes but fees, etc., will remain as they are in current practice. Promulgation of this proposed rule and/or amendment will not affect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed rule and/or amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule and/or amendment will not affect competition and employment.

Troy M. Hebert
Commissioner
1403#016

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Responsible Vendor Program (LAC 55:VII.505 and 509)

Under the authority of R.S. 26:931 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55.VII.505 and 509 relative to the forms of personal identification required to be submitted and/or maintained by servers, trainers, providers and vendors of the Responsible Vendor Program.

The proposed amendments are adopted to require that only the last four digits of the Social Security number of servers, security personnel and trainers shall be provided to and maintained by providers, vendors, the program administrator and the Office of Alcohol and Tobacco Control.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 5. Responsible Vendor Program
§505. Vendors

A. - B.2. …

3. The vendor shall maintain server and security personnel training records, which include the name, date of birth, last four digits of Social Security number, and date of hire for all servers and security personnel. The records shall be kept on the licensed premises at all times for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998), amended LR 25:879 (May 1999), LR 31:939 (April 2005), LR 39:1827 (July 2013), LR 40:

§509. Training: Provider and Trainers

A. - B.1.c. …

d. the names, date of birth, last four digits of Social Security numbers, addresses and phone numbers, and educational and employment backgrounds of all trainers to be used in teaching the course; and

1.e - 2.a. …

b. the names, dates of birth, last four digits of Social Security numbers, addresses and phone numbers, and educational and employment backgrounds of all persons engaged in the development/creation of the online (computer-based) training course;

B.2.c. - E.1. …

a. the name, last four digits of Social Security number, permit number, address, telephone number, and date of birth of each student that completed the training course and passed the required examination;

1.b. - 2. …

3. The approved provider shall maintain for four years from the date the class was conducted, the course information, which includes the class location, date, and time; trainer's name; and the student's names, last four digits of Social Security number and permit number. These records shall be maintained at the approved provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

F. - K.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998), amended LR 31:939 (April 2005), LR 39:1828 (July 2013), LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30 pm on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 in Baton Rouge, LA.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Responsible Vendor Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed amendment requires that only the last four digits of the social security numbers of persons defined as "servers," "security personnel," and "trainers" shall be provided to and maintained by persons defined as "providers," "vendors," "the program administrator," and the office of alcohol and tobacco control. Promulgation of this proposed amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed amendment will not affect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment will not effect competition and employment.

Troy M. Hebert	Gregory V. Albrecht
Commissioner	Chief Economist
1403#014	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Regulation IX—Prohibition of Certain Unfair Business Practices (LAC 55:VII.317)

Under the authority of R.S. 26:150 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.317 relative to unfair business practices.

This proposed amendment to the above-referenced Rule is offered under authority of R.S. 26:150 to promulgate rules relative to unfair business practices to provide for regulations for the use of social media advertisements, retailer trade associations, third-party promotional companies, reasonable retail entertainment and events at unlicensed venues.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§317. Regulation IX—Prohibition of Certain Unfair Business Practices

A. Definitions

* * *

Retailer Trade Association—an association or similar designation with a majority of its members holding a state retail alcoholic beverage permit that is registered and in good standing with the Louisiana Secretary of State as a non-profit entity who has applied with and received approval from the Internal Revenue Service as a 501(c)(6) tax exempt organization in good standing.

Social Media Advertisement—any written or verbal statement, illustration, or depiction which is in, or calculated to induce sales in, intrastate, interstate or foreign commerce, or is disseminated by social network services, video sharing sites, blogs, microblogs, links and quick response codes.

* * *

B. - C.2.b.iii. …

c. Outside Signs. The furnishing of outside signs by an industry member to licensed retail dealers is prohibited. It is unlawful for an industry member to, directly or indirectly, give, rent, loan, sell or in any other manner provide a retail dealer with any form of outside signage except as expressly allowed by the alcoholic beverage control laws and regulations.

i. This prohibition shall not be construed to apply to any advertising, branding or labeling artwork that is permanently affixed to any equipment supplied to the holder

of a type A, B, or C special event permit holder in accordance with Subsection F of Section 323 of this Chapter.

d. - h.v. …

vi. Industry members may use a third-party promotional company to conduct product samplings under the following conditions.

(a). The industry member has a written contractual agreement with the third-party promotional company that clearly defines the scope of the activities to be conducted by the promotional company on behalf of the industry member and the contractual agreement is provided to the Office of Alcohol and Tobacco Control prior to any representation by the third-party promotional company on behalf of the licensed industry member.

(b). Violations of the alcoholic beverage control laws or regulations by a third-party promotional company or any of its representatives shall be considered the industry member's act for purposes of penalties or suspension or revocation of the industry member's alcoholic beverage permit.

(c). The third-party promotional company shall not be directly or indirectly owned, created, operated, inappropriately influenced, or controlled by an alcoholic beverage dealer licensed by the state of Louisiana or any person holding an interest therein.

(d). The industry member or third-party promotional company shall not give the retail dealer anything of value.

(e). The name and permit number of the industry member and the name of the third-party promotional company shall be provided on all documents required to be submitted to the Office of Alcohol and Tobacco Control by this Section.

(f). The industry member shall ensure that all agents of the third-party promotional company possess valid Louisiana responsible vendor certifications prior to conducting any samplings of alcoholic beverages on the industry member's behalf.

(g). The third-party promotional company shall not offer for sale or solicit any orders for the sale of any alcoholic beverages produced or supplied by the industry member.

i. - n.viii. …

o. Retail Trade Associations. Industry members may participate in the activities of a retailer-affiliated trade association, as defined in this Section, only in the following ways:

i. by advertising in convention publications and/or programs;

ii. by being an associate member;

iii. by exhibiting their products and offering single serve portions of their products at no cost for immediate consumption on the premises of the exhibition without having to obtain a special event permit;

iv all state and parish or municipal excise taxes due shall be paid prior to the provision of any products for consumption at exhibition events;

v. the industry member shall provide the Office of Alcohol and Tobacco Control with written notice of the location, date(s) and time(s) it intends to exhibit any product no less than seven days prior to the exhibition; and

vi. the industry member's participation with a retailer trade association shall not benefit one or more of the trade association's members to the exclusion, in whole or in part, of the other retail members.

p. Reasonable Retail Entertainment. The furnishing of food and beverages, entertainment and recreation by an industry member to a retail dealer or its owners, officers, members, directors, stockholders, employees, agents, managers, or subsidiaries is prohibited except under the following conditions:

i. the value of food, beverages, entertainment and recreation shall not exceed $500 per person on only one occasion per week; and

ii. food, beverages, entertainment and recreation provided may only be consumed or enjoyed in the immediate presence of both the providing industry member and the receiving retail member; and

iii. in the course of providing food, beverages, entertainment or recreation under this Rule, upper tier industry members may only furnish ground transportation;

iv. food, beverages, recreation and entertainment may also be provided during attendance at a convention, conference, or similar event so long as the primary purpose for the attendance of the retailer at such event is not to receive benefits under this regulation;

v. each industry member shall keep complete and accurate records of all expenses incurred for retailer entertainment for two years.

q. Social Medial Advertisements. The listing of the names and addresses of two or more unaffiliated retail dealers selling the products of an industry member in an advertisement of that industry member does not constitute a means to induce within the meaning of R.S. 26:287(A)(9)(b) and this Section provided that all of the following conditions are met:

i. the advertisement does not also contain the retail price of the product; and

ii. the listing is the only reference to the retail dealers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole; and

iii. the advertisement does not refer only to one retail dealer or only to retail dealers controlled directly or indirectly by the same retail dealer; and

iv. the retail dealer is not required to provide the industry member with anything of value as a condition to having its business listed in the advertisement.

r. Events at Unlicensed Venues. The provisions of R.S. 26:287 and this Section shall not be construed to prohibit an alcoholic beverage manufacturer, wholesale dealer or retail dealer from sponsoring, providing sponsorship signs, promoting or advertising an alcoholic beverage brand or product, or purchasing, displaying, and/or transmitting indoor or outdoor signs or other advertising and marketing products from the owner, operator, promoter, lessee or management company of an event or venue conducting events at a premises that does not hold a retail alcoholic beverage permit if all alcoholic beverages are sold and/or served by a person holding a class A-caterer's permit issued in accordance with these regulations and all of the following conditions apply:

i. the caterer is engaged to provide food and beverage concession services pursuant to a written

agreement with the owner, operator, promoter, lessee or management company of the premises where alcoholic beverages are sold and/or served; and

ii. the caterer receives no monetary benefit, directly or indirectly by any scheme or device or in any form or degree from the manufacturer, wholesaler, or retailer in connection with the provision or purchase of sponsorship, signs, advertising or marketing products from the owner, operator, promoter, lessee or management company of the premises. The provision of indoor or outdoor signs and the use of proceeds of a manufacturer's, wholesaler's, or retailer's purchase of indoor or outdoor signs or other advertising and marketing products from the owner, operator, promoter, lessee or management company of the premises conducting events to enhance or otherwise benefit an event or the venue conducting events shall not be construed to be a direct or indirect monetary benefit to the caterer or any retail dealer located on or around the premises of the event or venue; and

iii. the caterer is not owned, in whole or in part, by the owner, operator, promoter, lessee or management company of the premises, or a subsidiary, agent or manager of the event or premises that is a direct recipient of such monetary benefit as defined in this Subparagraph; and

iv. the owner, operator, promoter, lessee or management company of the premises shall not directly or indirectly control or otherwise influence the quantity or brand of alcoholic beverages bought or sold by the caterer unless the caterer is owned, in whole or in part, by the owner of the premises who is not the direct recipient of such monetary benefit as defined in this Subparagraph; and

v. no part of the cost of an advertisement, sponsorship or promotion authorized by this Subparagraph may be charged to or paid by a wholesale dealer unless the wholesaler either contracts directly with the owner, operator, promoter, lessee or management company of the unlicensed premises for the advertisement, sponsorship, or promotion or the wholesaler is a party to the advertising, sponsorship or promotion agreement between the manufacturer and the owner, operator, promoter, lessee or management company of the unlicensed premises.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:150.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), LR 26:2631 (November 2000), LR 28:1484 (June 2002), LR 31:1344 (June 2005), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 35:89 (January, 2009), LR 38:1286 (May 2012), LR 38:2938 (November 2012), LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30 p.m. on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 floor in Baton Rouge, LA.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation IX—Prohibition of Certain Unfair Business Practices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed amendment to the above-referenced rule provides for regulations for the use of social media advertisements, retailer trade associations, third party promotional companies, reasonable retail entertainment and events at unlicensed venues. It also defines a Retailer Trade Association and a Social Media Advertisement as well as addressing certain issues related to outside signs and product sampling.

The proposed rule does not materially impact enforcement or accounting duties to the extent that departmental resources will be impacted. Thus, promulgation of this proposed rule and/or amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no additional fees or new permitting practices included in the proposed rule. Promulgation of this proposed rule and/or amendment will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed rule and/or amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule and/or amendment will not affect competition and employment.

Troy M. Hebert	Gregory V. Albrecht
Commissioner	Chief Economist
1403#015	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Regulation XI—Fairs, Festivals and Special Events
(LAC 55:VII.323)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950, et seq., notice is hereby given that the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.323 Regulation Number XI—Fairs, Festivals and Special Events.

This proposed amendment to the above-referenced Rule is offered under authority delegated by R.S. 26:793 relative to the issuance of three-day permits to serve alcoholic beverages at fairs, festivals, civic and fraternal and religious events, Mardi Gras events, and nonprofit functions.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§323. Regulation XI—Fairs, Festivals and Special Events

A. …

B. For such events, this office will issue a special temporary retail alcoholic beverage permit. These permits authorize alcoholic beverages to be sold, served and/or supplied at the special event for a maximum duration of three consecutive days only, but wholesalers may deliver alcoholic beverages to the event location up to 2 days prior to the effective date of the permit. No more than 12 such permits shall be issued to any one person, organization or entity within a single calendar year.

B.1. - E. …

1. Type A special events held on the premises of a Class A, B or C retail alcoholic beverage permit holder shall comply with all of the following conditions:

a. the special event permit is applied for and obtained in the name of the non-profit organization;

b. the non-profit organization is not affiliated, either directly or indirectly, with an alcoholic beverage manufacturer or wholesale dealer;

c. the non-profit organization holding the Type A special event permit must return or remove all unused alcoholic beverage products at the conclusion of the event. No alcoholic beverage product purchased or otherwise obtained in the name of the non-profit organization or for the purpose of servicing the special event shall be left on the licensed premises at the conclusion of the event;

d. subject to inspection by the commissioner or his agents, the non-profit organization shall document and maintain record of:

i. the total amount of alcoholic beverages purchased for the event;

ii. the total amount of alcoholic beverages sold or served during the event; and

iii. the total amount of alcoholic beverages removed or returned at the conclusion of the event;

e. any and all signage, equipment or other items provided by an alcoholic beverage manufacturer or wholesale dealer in relation to the non-profit special event shall be removed from the premises of the retail dealer immediately upon conclusion of the special event;

f. the premise's Class A, B, or C alcoholic beverage permit was not issued pursuant to R.S. 26:85.1 and R.S. 26:273C;

g. all proceeds generated by or in connection with the event shall be paid to the holder of the Type A special event permit;

h. the holder of the Class A, B or C retail alcoholic beverage permit shall receive no proceeds, alcoholic beverage products, sponsorship dollars, promotional items or other items of value other than a reasonable rental fee at fair market value; and

i. The provisions of R.S. 26:287(9) and Regulation IX dealing with unfair business practices shall apply with respect to the holder of the Class A, B or C retail alcoholic beverage permit holder.

F.1. - F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:606 (June 1991), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 34:1634 (August 2008), LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S.49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30pm on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4:00 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 Floor in Baton Rouge, Louisiana.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation XI
Fairs, Festivals and Special Events

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed regulation establishes guidelines for Type A (non-profit) special events held on the premises of a Class A, B

or C retail alcoholic beverage permit holder by allowing the delivery of alcohol up to 2 days prior to the permit dates without requiring an additional permit. The proposed rule also delineates issues surrounding a Type A event, including requirements and responsibilities of the non-profit.

The proposed rule/amendment does not alter fees, enforcement efforts or permitting requirements. Promulgation of this proposed rule and/or amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule/amendment does not alter fees, enforcement efforts or permitting requirements. Promulgation of this proposed rule and/or amendment will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed rule and/or amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule and/or amendment will not affect competition and employment.

Troy M Hebert	Gregory V. Albrecht
Commissioner	Chief Economist
1403#012	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Regulation XIII—Posting of the National Human Trafficking Resource Center Hotline
(LAC 55:VII.331)

Under the authority of R.S. 15:541.1 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to enact LAC 55:VII.331 relative to the posting of certain information regarding the National Human Trafficking Resource Center hotline.

The proposed regulation is enacted to comply with the mandates of Act 430 of the 2013 Regular Session of the Louisiana Legislature.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§331. Regulation XIII—Posting of the National Human Trafficking Resource Center Hotline

A. All establishments listed in R.S. 15:541.1(A) shall prominently display a poster furnished by the Office of Alcohol and Tobacco Control containing information regarding the National Human Trafficking Resource Center hotline in all male and female public restrooms located within the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:541.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S.49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30 p.m. on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 in Baton Rouge, LA.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation XIII—Posting of the National Human Trafficking Resource Center Hotline

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Current law requires the posting of human trafficking posters in certain establishments, under the guidelines established herein by the Office of Alcohol and Tobacco Control per Act 430 of the 2013 Regular Session. Promulgation of this proposed rule will result in nominal recurring costs to the Office of Alcohol and Tobacco Control (ATC) as a result of printing National Human Trafficking Center posters in accordance with the Act. ATC has printed and caused to be posted an approximate 2,000 posters at a total cost of $1,853 in FY 14. The estimated cost of continued implementation for new establishments will be roughly $2,000 annually, which is included in the department's base budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed rule will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition and employment.

Troy M. Hebert	Gregory V. Albrecht
Commissioner	Chief Economist
1403#024	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Staggering of Expiration Dates (LAC 55:VII.321)

Under the authority of R.S. 26:794 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.321 relative to the timely filing of renewal applications for alcoholic beverage permits.

The proposed regulation amends the date that applications for the renewal of alcoholic beverage permits shall be due in the Office of Alcohol and Tobacco Control to require that applications are due on or before the expiration date on the current permit. The proposed amendment mirrors the existing regulation for the timely submission of tobacco permit renewal applications to provide for consistency in requirements relative to the submission of applications with the Office of Alcohol and Tobacco Control.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§321. Staggering of Expiration Dates

A. - D.2. …

E. Renewal Deadline: Penalties

1. Applications for the renewal of permits issued pursuant to this regulation shall be due in the Office of Alcohol and Tobacco Control on or before the date of expiration on current permit.

E.2. - G. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:794.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 12:247 (April 1986), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1318 (July 1998), LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30 p.m. on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 floor in Baton Rouge, LA.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Staggering of Expiration Dates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed regulation amends the date that applications for the renewal of alcoholic beverage permits shall be due in the office of alcohol and tobacco control to require that applications are due on or before the expiration date on the current permit. Promulgation of this proposed amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed amendment will not affect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed amendment will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment will not effect competition and employment.

Troy M. Hebert	Gregory V. Albrecht
Commissioner	Chief Economist
1403#013	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Stamping Agent and Exporter Regulations
(LAC 55:VII.Chapter 31)

Under the authority of R.S. 26:901 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.3101, 3103, and 3117 relative to the licensing of wholesale tobacco dealers as stamping agents and exporters of tobacco products.

The proposed amendments to the above-referenced rules are adopted to comply and correlate with the provisions of R.S. 901 et seq., as amended and re-enacted through Act 221 of the 2013 Regular Legislative Session which creates the stamping agent designation and exporter license as additions

to the credentials a wholesale tobacco dealer shall obtain when receiving and conducting interstate business with unstamped tobacco products.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 2. Tobacco

Chapter 31. Tobacco Permits

§3101. Definitions

A. For purposes of this Chapter, the following terms are defined.

Brand Family—all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to "menthol," "lights," kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

* * *

Exporter License—permits wholesale dealers with a valid stamping agent designation to engage in interstate business or to affix the tax stamps of another state.

Knowing Violation—the knowing or intentional act of engaging in conduct without a good faith belief that the conduct was consistent with the title 26 of the *Louisiana Revised Statutes*.

* * *

Person—any natural *person*, trustee, company, partnership, corporation, or other legal entity.

Purchase—acquisition in any manner, for any consideration. Includes the transport or receipt of product in connection with a *purchase*.

* * *

Sale; Sell—any transfer, exchange, or barter in any manner or by any means for any consideration. Includes the distribution or shipment of product in connection with a *sale*. References to a *sale* "in" or "into" a state refer to the state of the destination point of the product in the *sale*, without regard to where title was transferred. References to *sale* "from" a state refer to the *sale* of cigarettes that are located in that state to the destination in question without regard to where title was transferred.

Sales Entity Affiliate—an entity that (1) sells cigarettes that it acquires directly from a manufacturer or importer and (2) is affiliated with that manufacturer or importer as established by documentation received directly from that manufacturer or importer to the satisfaction of the attorney general. Entities are affiliated with each other if one, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other.

Stamping Agent—a dealer that is authorized to affix tax stamps to packages or other containers of cigarettes pursuant to R.S. 47:843 et seq., or any dealer that is required to pay the excise tax or tobacco tax imposed pursuant to R.S. 47:841 et seq. on cigarettes.

State Directory; Directory—the *directory* compiled by the attorney general pursuant to R.S. 13:5073, or, when referencing another *state's directory*, the *directory* compiled pursuant to the similar law in that other state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:901.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998), amended LR 38:145 (January 2012), LR 40:

§3103. Identifying Information for Permits

A. Permits

1. An exporter license shall be issued to a wholesale dealer with a valid stamping agent designation if that dealer engages in interstate business or affixes the tax stamps of another state. Such wholesale dealer/stamping agent shall first apply for the license prior to the purchase or possession of unstamped or non-tax paid cigarettes of another state.

2. A retail dealer permit shall be issued to a dealer other than a wholesale dealer, tobacconist, or vending machine operator for each retail outlet where cigars, cigarettes, or other tobacco products are offered for sale either over the counter or by vending machine.

3. A stamping agent designation shall be issued to a dealer that engages in the business of purchasing unstamped or non-tax paid cigarettes and that meets all the requirements of a wholesale dealer as defined in accordance with the provisions of R.S. 26:906(H) and the provisions of this Chapter.

4. A tobacconist permit shall be issued to a dealer engaged in receiving bulk smoking tobacco for the purpose of blending such tobacco for retail sale at a particular outlet where 50 percent or more of the total purchases for the preceding 12 months were purchases of tobacco products, excluding cigarettes, for each retail outlet where cigars, cigarettes, or other tobacco products are offered for sale either over the counter or by vending machine.

5. A vending machine operator permit shall be issued to a vending machine operator operating one or more vending machines. Licensed wholesale dealers who operate vending machines shall not be required to obtain a vending machine operator permit.

6. A vending machine permit shall be issued to the vending machine operator or wholesale dealer for each vending machine he operates and such permit shall be affixed to the upper front surface of the vending machine.

7. A wholesale dealer permit shall be issued to a wholesale dealer for each wholesale place of business operated by the wholesale dealer.

B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:902.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998), amended LR 38:145 (January 2012), LR 38:2939 (November 2012), LR 40:

§3117. Importation of Cigarettes by Wholesaler Only

A. Cigarettes, as defined in R.S. 26:901, produced or manufactured outside of this state cannot be sold or offered for sale in Louisiana, or shipped or transported into the state except to the holder of a wholesaler's permit. Delivery of cigarettes produced or manufactured outside of this state must be made at the place of business of the wholesaler shown on the wholesaler's permit, and must be received and warehoused by the wholesaler at that place of business, where such cigarettes must come to rest before delivery is made to any retailer.

B. Pursuant to the provisions of R.S. 26:902 et seq., a wholesale dealer shall not accept delivery of any unstamped cigarettes produced or manufactured outside the state unless such wholesale dealer is also the holder of a valid stamping agent designation and exporter license. Acting within his duties as stamping agent, a wholesale dealer who comes into receipt of such and unstamped package of cigarettes, shall immediately cause the proper affixation of the required stamps to each package of cigarettes.

C. In accordance with R.S. 47:871, no person who is engaged in the business of selling or distributing cigarettes may ship or transport, or cause to be shipped or transported, cigarettes to any consumer in the state. The provisions of this Section shall apply regardless of whether the person engaged in the business of selling or distributing cigarettes is located within or without the state.

D. Any retailer of cigarettes who violates any provision of this Section will be subject to a civil penalty in the amount of $25,000. Any retailer that sells and ships directly to consumers in Louisiana pursuant to Subsection B of this Section must, on the application for authority to make such shipments filed with the secretary of the Department of Revenue in accordance with Subsection C of this Section, acknowledge in writing the civil penalty established in this Subsection and must consent to the imposition thereof upon violation of this Section. The secretary may initiate and maintain a civil action in a court of competent jurisdiction to enjoin any violation of this Section and to recover the civil penalty established in this Subsection, together with all costs and attorney fees incurred by the secretary incidental to any such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:922.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2036 (August 2005), amended LR 40:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments until 4:30 p.m. on April 30, 2014 to Commissioner Troy M. Hebert, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Public Hearing

A public hearing will be held on Friday, April 25, 2014 at 4 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305, in Baton Rouge, LA.

Troy Hebert
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Stamping Agent and Exporter Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Promulgation of these proposed rule amendments will not result in any costs or savings to state or local government units. The proposed rule amendments define terminology related to the creation of a new permit designation. The amendments further state applicant requirements for the new permit designation allowing a stamping agent to also have an exporter license, though the enacting legislation (Act 221 of 2013) designates further action by ATC and other agencies. The amendments further restate some, though not all, applicant requirements for the new permit designation. The Office of Alcohol and Tobacco Control will absorb any related administrative expenses within its existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of these proposed amendments do not appear to affect revenue collections of state or local governmental units, since it is primarily a verbatim restatement of statutory definitions. Compliance penalties are addressed in the authorizing law (Act 221 of 2013) but are not addressed by the proposed rule amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments will not impose any additional cost on non-governmental persons or groups, but will help ensure that permit holders practice compliance with existing Louisiana excise tax laws. Act 221 of the 2013 Regular Session and existing statutes include these definitions among others that are in place to facilitate compliance with the recent arbitration settlement for the disputed portion of the Master Settlement Agreement. Additional duties and consequences of the permitting process and tobacco tax enforcement guidelines are included in the statute along with responsibilities of and guidelines for the Department of Revenue and the Office of the Attorney General. However, the proposed rule addresses mainly related to the Office of Alcohol and Tobacco Control.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

As stipulated in the Master Settlement Agreement (MSA), the proposed rule amendment is part of an enforcement effort that may result in stricter adherence to tobacco tax laws for those not participating in the MSA and may require more effort to adhere to procedures put in place for compliance, though the definitions in the proposed amendment do not directly require this adherence. All market participants will be subject to the same laws, regardless of whether the proposed amendment is adopted, and, assuming lawful behavior, competition and employment will remain impacted as agreed to under the provisions of the MSA.

Troy M. Hebert
Commissioner
1403#032

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Commercial Fishing—Lake Bruin, False River Lake, and Lake Providence (LAC 76:VII.125, 158, and 163)

The Wildlife and Fisheries Commission does hereby give notice of its intent to modify the opening date of the recurring commercial fishing seasons in Lake Bruin (Tensas Parish), False River Lake (Pointe Coupee Parish), and Lake Providence (East Carroll Parish) Louisiana.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic life
Chapter 1. Freshwater Sports and Commercial Fishing

§125. Lake Bruin

A. The Wildlife and Fisheries Commission hereby establishes and permits a special recurring commercial fishing season, allowing the use of certain nets and slat traps, in Lake Bruin, Tensas Parish, Louisiana. The season will commence each year at sunrise on October 1 and close at sunset on the last day of February the following year.

1. Commercial fishing with certain nets and slat traps will be allowed on Lake Bruin only during the above described special season and only by licensed commercial fishermen who must also obtain a Lake Bruin commercial fishing permit from the Department of Wildlife and Fisheries. The permit will be issued at no cost on a seasonal basis and must be renewed for each season. The permittee must also file a report to the Department of Wildlife and Fisheries of his catch that is postmarked not later than 15 days after the close of that season. The use of nets in Lake Bruin will be limited to gill and trammel nets greater than or having at least a minimum mesh of 3 1/2-inch bar and 7-inch stretch.

2. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured may be removed during daylight hours only.

3. Failure to comply with the terms of the special permit or of any Louisiana commercial fishing regulations shall result in immediate cancellation of the permit for the remainder of the current season.

4. Failure to submit a timely report for a particular year's commercial fishing season shall result in the denial of a permit for the next year. If a report is eventually received after the deadline period for a particular year, the applicant may get a permit after skipping a year, however, if no report is ever filed, no permit for any subsequent year will be considered.

5. Applicants with a citation(s) pending for three years or less, which is a class 2 fish or game violation(s) or greater shall be denied a permit until such time as the applicant appears before department officials for the purpose of reviewing the citation(s) issued. The secretary, after reviewing the proceedings, may issue or deny the permit.

6. Permits shall not be issued to any applicant who within three years of the date of his/her application, has been convicted or pled guilty to a class 2 fish or game violation or greater, as defined in the laws pertaining to wildlife and fisheries.

7. Applicants convicted of, or pleading guilty to two or more class 2 fish or game violations or greater within five years of the application date shall not receive a permit.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:22, 56:326.3 and R.S. 56:402.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 13:502 (September 1987), amended LR 18:294 (March 1992), LR 40:

§158. False River, Trammel Nets, Gill Nets and Fish Seines

A. Prohibits the use of trammel and gill nets in False River, Pointe Coupee Parish, Louisiana, except their use will be allowed for the legal harvest of commercial fish during a special recurring trammel and gill netting season to commence each year at sunrise on October 1 and close at sunset on the last day of February the following year. The use of fish seines is prohibited and there is no season.

B. The trammel and gill nets allowed during the special recurring season shall have a minimum mesh size of 3 1/2" square (7" stretched) or greater.

C. Commercial fishing will be allowed only during daylight hours except that gear can remain set overnight but fish captured shall be removed during daylight hours only.

D. Commercial fishing with trammel and gill nets will be allowed on False River Lake only during the open season and only by licensed commercial fishermen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:1732 (July 2012), amended LR 40:

§163. Lake Providence, Gill Nets and Trammel Nets

A. Prohibits the use of gillnets and trammel nets in Lake Providence, East Carroll Parish, Lake Providence, Louisiana, except their use will be allowed for the legal harvest of commercial fish during a special recurring trammel and gill netting season to commence each year at sunrise on October 1 and close at sunset on the last day of February the following year.

B. The trammel and gill nets allowed during the special recurring season shall have a minimum mesh size of 3 1/2-inch bar and 7 inches stretched.

C. Said net may remain set overnight, but fish captured may be removed during daylight hours only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:294 (March 1992), amended LR 40:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B).

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mike Wood, Director, Inland Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to May 4, 2014.

Billy Broussard
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Fishing
Lake Bruin, False River, and Lake Providence

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change is expected to have no effect on implementation costs to state or local governmental units. The proposed Rule change would lengthen the commercial fishing season on three water bodies by one month: Lake Providence in East Carroll Parish, Lake Bruin in Tensas Parish, and False River in Pointe Coupee Parish. Under the proposed Rule change, the commercial fishing season on these lakes would be open from October 1 through the end of February. The current commercial fishing season runs from November 1 through the end of February.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change is expected to 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)

Commercial fishermen in and around East Carroll, Tensas, and Pointe Coupee parishes would benefit from a longer commercial fishing season in Lake Bruin, Lake Providence, and False River. This proposed regulatory change may result in a minor increase in commercial fishing activity, harvests, and revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1403#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality
Office of Environmental Services
Water Permits Division

Reissuance of the General Permit for Discharges of Storm Water from Construction Activities Five Acres or Greater

The general permit for discharges of storm water from construction activities five acres or greater (LPDES permit no. LAR100000) heretofore referred to as the "general permit," will expire September 30, 2014. Due to the significance of the proposed changes in the upcoming reissuance, the LDEQ Water Permits Division is providing advanced notification of these changes to the regulated community and the general public. As part of the reissuance process, the department is proposing the following changes to the general permit. (1403Pot1)

The proposed changes under consideration include the following: (1) The owners and/or operators applying for coverage under the general permit shall select the time frame for which permit coverage is needed, a minimum of one year up to five years. Prior to receiving coverage, the applicant(s) must submit payment of the annual general permit fee(s) for the entirety of the selected coverage (LAC 33:IX.1309.F and N). As a result, permitted operators will no longer receive annual invoices and notices of termination will not be required to be submitted by the permittees. Permit coverage will be automatically terminated based on the number of years selected by the applicant. (2) Current permitted owners and/or operators in good financial standing with the department will automatically have their coverage extended under the reissued general permit for one year. Extensions of coverage beyond one year will be allowed for any permittee with written notification and payment of the additional annual permit fee(s). (3) Current permitted owners and/or operators that owe outstanding permit fees to the department will not be extended automatic coverage under the reissued general permit. All past due invoices must be paid by the effective date of the general permit in order to ensure automatic reauthorization.

Annual permit fees are not being increased. The proposed changes affect the timing and method of payment. The proposed changes to the payment method are expected to reduce the paperwork burden on both the permittee(s) and the department, eliminate duplicate billing due to the complications of invoicing permittee(s) based on the state fiscal year, and eliminate the need for permittee(s) to track when a notice of termination is due to be submitted.

A notification to solicit public comment on these proposed changes is anticipated to be published in the official state journals in July of 2014. If you wish to be notified of the public comment period, please subscribe to the statewide public notice list at http://louisiana.gov/Services/Email_Notifications_DEQ_PN/ or contact the LDEQ Public Participation Group at (225) 219-5337. Additionally, current permitted owners and/or operators that owe outstanding fees to the department will be notified by the Water Permits Division of their financial status in advance of the general permit reissuance. For further information regarding the general permit for discharges of storm water from construction activities five acres or greater, you may contact Ardrene Logan, Office of Environmental Services, Water Permits Division, at (225) 219-3203 or ardrene.logan@la.gov.

Herman Robinson, CPM
Executive Counsel

1403#027

POTPOURRI

Department of Children and Family Services
Child Welfare Section

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of social services block grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2014, and ending June 30, 2015. The proposed SFY 2014-2015 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state services agency, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2014-2015 SSBG expenditures for adoption, child protection, and daycare for children, family services, and foster care /residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2014-2015 are:

A. adoption (pre-placement to termination of parental rights);

B. child protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals);

C. daycare for children (direct care for portion of the 24-hour day as follow-up to investigations of child abuse/neglect);

D. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

E. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis). Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of temporary assistance for needy families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than $1963 would qualify as income eligible for services;

E. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

Post expenditure reports for the SSBG program for SFY 2012-2013 are included in the SSBG intended use report for SFY 2014-2015. Free copies are available by telephone request to (225) 341-7319 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821. The report is available for public review online at http://www.dss.state.la.us/index.cfm?md= pagebuilder&tmp=home&pid=131, then select the 2013 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 7, 2014 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 7, 2014 at 10 a.m. in Room 1-127 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

1403#029

POTPOURRI

Department of Children and Family Services
Division of Programs

Louisiana's 2014 Annual Progress and Services Report (final report for year five of CFSP) and Louisiana's 2015-2020 Child and Family Services Plan (CFSP)

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2014 annual progress and services report (APSR). The APSR is a report on the fifth and final year of the 2010-2014 child and family services plan (CFSP) as well as the new five year CFSP. These plans address the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), educational and training vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds. The APSR is the report on the achievement of goals and objectives and/or outcomes for the 2010-2014 CFSP and the new 2015-2020 CFSP sets forth new goals and objectives for the next five years.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protection investigations, family services, foster care, adoption and the youth transition services. The department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the "Stephanie Tubbs Jones Child Welfare Services Program," to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled "Promoting Safe and Stable Families," funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment initiatives. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

The DCFS is encouraging public participation in the planning of services and the writing of the document. The report can be found for review on the internet under http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp= home&pid=132 then the 2013 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 7, 2014 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 7, 2014 at 10:30 a.m. in Room 1-127 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

1403#030

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 13 claims in the amount of $59,233.75 were received for payment during the period February 1, 2014-February 28, 2014

There were 11 paid and 2 denied.

Latitude/longitude coordinates, in degree decimal minutes, of reported underwater obstructions are:

29 08.958	90 27.841	Terrebonne
29 13.058	89 03.719	Plaquemines
29 14.461	89 27.251	Plaquemines
29 17.134	89 53.216	Plaquemines
29 18.129	89 46.365	Plaquemines
29 21.429	90 59.297	Terrebonne
29 22.145	89 55.986	Plaquemines
29 27.505	89 59.185	Jefferson
29 27.808	90 07.731	Lafourche
29 41.177	89 31.034	Saint Bernard
29 46.119	93 17.607	Cameron
29 46.321	89 37.650	Saint Bernard
30 01.354	89 20.973	Saint Bernard

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

1403#076

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