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Executive Orders

EXECUTIVE ORDER BJ 15-9

Flags at Half Staff

WHEREAS, on Wednesday evening, June 17, 2015, nine people were killed in a senseless attack in Charleston, South Carolina; and

WHEREAS, the attack occurred at the historic Emanuel African Methodist Episcopal Church during a weekly bible study; and

WHEREAS, churches around the world are places of refuge, comfort, and prayer; and

WHEREAS, that an attacker, reportedly welcomed into this place of refuge, would enter having already planned this horrible attack is unthinkable to a society founded upon the ideals of religious freedom; and

WHEREAS, the thoughts and prayers of all Louisianians are with the families of the victims of this horrible attack.

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: As an expression of respect for the victims of the Charleston Church attack, effective immediately, the flags of the United States and the State of Louisiana shall continue to be flown at half-staff over the State Capitol and all public building and institutions of the State of Louisiana until sunset on Sunday, June 28, 2015.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Sunday, June 28, 2015, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of June, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1507#007

EXECUTIVE ORDER BJ 15-10

Voter Registration Opportunities

WHEREAS, it is the announced policy of the State of Louisiana as established by the Legislature, Governor and Secretary of State to encourage full participation in voting by all citizens of the State;

WHEREAS, to that end the State has expanded voter registration opportunities through registration at parish Registrar's offices, at the Office of Motor Vehicles, registration by mail, assisting in voter registration drives, implementing an online voter registration system at www.GeauxVote.com, dedicating a state voter registration week, providing early registration for sixteen year olds in connection with their first time driver's license applications, as well as a myriad of other activities and programs designed to remind and assist citizens with voter registration;

WHEREAS, the State has also continued in effect a program of voter registration established in La. R.S. 18:116 and the National Voter Registration Act (NVRA) providing for voter registration at designated public assistance agencies and offices that provide state funded programs primarily engaged in providing services to persons with disabilities in connection with certain defined benefit transactions at the respective agencies and offices identified and defined as "voter registration agencies";

WHEREAS, while state registration programs are effective in providing citizens the opportunity to register to vote as evidenced by Louisiana having approximately 86% of its eligible citizens registered to vote, the NVRA voter registration program continues to have value by further ensuring that as many citizens as possible are afforded the opportunity to register to vote;

WHEREAS, the Secretary of State, in Article IV, Section 7 of the Louisiana Constitution of 1974, is designated the Chief Election Officer of the State and as such is assigned the duty of coordinating state responsibilities under the National Voter Registration Act and applicable voter registration laws of the state;

WHEREAS, coordination of state responsibilities under the National Voter Registration Act has been broadly construed to include primary enforcement of the state's responsibilities under the NVRA with respect to voter registration agencies;

WHEREAS, pursuant to his duty to coordinate state responsibilities and in accordance with the Administrative Procedure Act, the Secretary of State has adopted administrative rules with respect to voter registration agencies as set out in LAC 31:II.401-421;

WHEREAS, an executive order directed to voter registration agencies within the executive branch is deemed advisable and necessary to reinforce and clarify the authority of the Secretary of State with respect to all such voter registration agencies.

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: The Department of Children and Family Services, the Department of Health and Hospitals, the Louisiana Workforce Commission, and such other offices, agencies, or departments designated as public assistance agencies and offices that provide state funded programs primarily engaged in providing services to persons with disabilities are hereby directed to implement and fully effectuate voter registration procedures, practices and forms in accordance with the administrative rules promulgated by the Secretary of State for "voter registration agencies" as

those administrative rules exist and may hereafter be amended.

SECTION 2: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 3: This order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded.

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 8th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1507#105

EXECUTIVE ORDER BJ 15-11

Executive Branch—Expenditure and Hiring Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 16 of the 2015 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government (hereafter "expenditure freeze"); and

WHEREAS, pursuant to R.S. 42:375, the Governor may issue executive orders which prohibit or regulate the filling of any new or existing vacancies in positions of employment in the executive branch of State government (hereafter "hiring freeze");

WHEREAS, R.S. 39:84 provides authority to the Governor to regulate and control personnel transactions;

WHEREAS, Act 16 of the 2015 Regular Session of the Louisiana Legislature authorizes and directs the commissioner of administration to reduce the budgets of the departments and budget units to achieve State General Fund (Direct) savings of at least $18,840,452 from contracts, vacant positions, and historical differences between the budget authority of each budget unit and the actual expenditures of the budget unit;

WHEREAS, to ensure that the State of Louisiana will not suffer a budget deficit due to fiscal year 2015-2016 appropriations exceeding actual revenues and that the budget challenges in the ensuing fiscal year are met, prudent money management practices dictate that the best interests of the citizens of the State of Louisiana will be served by implementing an expenditure and hiring freeze throughout the executive branch of state government.

WHEREAS, Act 16 of the 2015 Regular Session of the Louisiana Legislature excludes each department and budget unit in Schedule 09 Department of Health and Hospital, Schedule 19A Higher Education, and Schedule 19E Louisiana State University Health Sciences Center Health Care Services Division from reductions in vacant positions and historical differences;

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

SECTION 1: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana as described in and/or funded by appropriations through Acts 16 and 46 of the 2015 Regular Session of the Louisiana Legislature (hereafter “Acts”), shall freeze expenditures and positions as provided in this Executive Order.

SECTION 2: No department, agency, and/or budget unit of the executive branch of the State of Louisiana, unless specifically exempted by a provision of this Order or with the approval of the Commissioner of Administration, shall make any expenditure of funds related to vacant positions and the expenditure categories of Travel, Operating Services, Supplies, Professional Services, Other Charges, Acquisitions, and Major Repairs.

SECTION 3: A. The budget activities funded by the Acts which are exempt from the prohibitions set forth in Section 2 of the Order are as follows:

1. All budget activities directly related to declared emergencies and coastal restoration;
2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;
3. All essential budget activities which are expressly and directly mandated by the constitution, existing court orders, existing cooperative endeavor agreements, or existing bona fide obligations;
4. All contracts associated with the transformation of state government that lead to future savings;
5. All essential budget activities of statewide control agencies;
6. All essential budget activities directly required for collection of state general fund revenues recognized by the Revenue Estimating Conference;
7. All budget activities which are financed by Federal Funds directly;
8. All budget activities associated with Schedule 19A Higher Education.

B. Other budget activities funded by the Acts are exempt from the prohibitions set forth in Section 2 of this Order to the following degree:

1. Essential expenses for incarceration, rehabilitation, diagnostic and health services, transportation of offenders, and probation and parole services related to adult corrections as well as positions and field travel for the Board of Pardons and Parole in the Department of Public Safety and Corrections, Corrections Services;
2. Essential expenses for juvenile secure care facilities and the Field Services activities in the Department of Public Safety and Corrections, Youth Services;
3. Essential expenses related to direct patient care;
4. Essential State Police commissioned trooper expenses and cadet classes as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police;

5. Essential Wildlife and Fisheries commissioned agent expenses and cadet classes as well as data processing, and communications, field travel for public safety and regulatory activities of the Enforcement Division, as well as automotive, watercraft and aviation, supplies for the Enforcement Division;

6. Essential instructional and residential expenses field travel, and supplies deemed to be absolutely critical for the operations of Special Schools, Recovery School District, Special School District, and Youth Challenge;

7. Essential expenses for the State Military Department associated with the deployment for backfilling for active duty National Guard personnel, and installation management and force protection;

8. Essential expenses related to the housing of state adult and juvenile offenders in local correctional or detention facilities or work release programs;

9. All vacant position and expenditures of Schedule 09 Department of Health and Hospitals and Schedule 19E Louisiana State University Health Sciences Center Health Care Services Division except contracts that are not otherwise exempted in Section 3.

C. The budget activities funded by the Acts which are exempt from the portion of the provisions of Section 2 of this Order that prohibits the expenditure of funds for travel are as follows:

1. Essential travel associated with promoting or marketing the state of Louisiana and/or its products by: a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or b) the Department of Economic Development;

2. Essential field travel for the Mental Health Advocacy Service and the Louisiana Public Defender Board;

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

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

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

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

D. The budget activities funded by the Acts which are exempt from the portions of the provisions of Section 2 of this Order that prohibits the expenditure of funds for supplies, acquisitions, and major repairs are as follows:

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

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

3. Essential automotive supplies, acquisitions, and major repairs for travel exempted in Section 3.

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

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

SECTION 6: This Order is effective upon signature and shall remain in effect through January 11, 2016, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of July, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1507#106

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services
Economic Stability Section

Strategies to Empower People (STEP) Program
(LAC 67:III.5721)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 16, Strategies to Empower People (STEP) Program, Chapter 57, Strategies to Empower People (STEP) Program, Section 5721, Job Readiness. This Emergency Rule shall be effective July 1, 2015 and shall remain in effect for a period of 120 days.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5721 is necessary to give the department more flexibility in operating the STEP program by eliminating the work-eligible FITAP applicant requirement of registering for work during the application period and prior to certification with Louisiana Workforce Commission (LWC). Work-eligible FITAP recipients will register for work when participating in job readiness activities. The proposed Rule does not eliminate any work requirements as specified by law. Work activity requirements including job readiness activities are included in §5713, Work Activities.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 15 of the 2014 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 16. Strategies to Empower People (STEP) Program
Chapter 57. Strategies to Empower People (STEP) Program
Subchapter C. STEP Program Process
§5721. Job Readiness

A. DCFS will ensure job readiness services are provided through other state partners or through performance-based contracts.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 285, 2013 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014), LR 41:

Suzy Sonnier
Secretary

1507#028

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Angel Investor Tax Credit (LAC 13:I.3307)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Angel Investor Tax Credit (R.S. 47:6020 and R.S. 51:921 et seq.) to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 33. Angel Investor Tax Credit
§3307. The Amount, Allocation and Limitations of the Angel Investor Tax Credits

A. - A.1.g. …

B. All applications for the reservation of credits shall be made on a form prescribed by the department. All applications for the reservation of credits shall be submitted to the department electronically to an email address specified by the department on its website. An application fee shall be submitted with all applications for reservation of credits. The application fee shall be equal to 0.5 percent (0.005) times the total anticipated tax incentive for the investors with a minimum application fee of $500 and a maximum application fee of $15,000, payable to Louisiana Department of Economic Development.

C. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006), amended LR 32:1595 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3196 (December 2011), amended by Department of Economic Development, Office of the Business Development, LR 41:

Anne G. Villa
Undersecretary

1507#017

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Enterprise Zone Program (LAC 13:I.Chapter 7)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Enterprise Zone Program (R.S. 51:1787 and R.S. 51:921 et seq.) to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 7. Enterprise Zone Program

§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. An employee certification report fee of $250 shall be submitted with the report. Failure to file may result in contract cancellation. One 30-day extension may be granted if requested in writing.

B. - D.2. …

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), LR 41:

§721. Advance Notification

A. An advance notification form, and a $250 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. - 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 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 41:

§723. Application

A. - B. …

C. An application fee equal to 0.5 percent (0.005) 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 $500 and the maximum fee is $15,000 per application. All fees shall be made payable to Louisiana Department of Economic Development.

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 29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 41:

§729. Enterprise Zone Program Contract

A. …

B. Business incentive services must be notified, on the prescribed form, of any change that will affect the contract. A fee of $250 shall be submitted with a request for any contract amendment. 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), LR 41:

§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. A project completion report fee of $250 and an affidavit of final cost fee of $250 shall be submitted with these forms or any amendments to these forms.

B. - 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 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 41:

Anne G. Villa
Undersecretary

1507#016

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Industrial Ad Valorem Tax Exemption Program
(LAC 13:I.Chapter 5)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development and the Louisiana Board of Commerce and Industry have an immediate need for rules for the Industrial Ad Valorem Tax Exemption Program (LA Const. Art. VII, Section 21 and LA R.S. 51:921 et seq.), to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 5. Industrial Ad Valorem Tax Exemption Program

§503. Advance Notification; Application

A. An advance notification of intent to apply for tax exemption shall be filed with the LED Office of Business Development (OBD) on the prescribed form prior to the beginning of construction or installation of facilities. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins. An advance notification fee of $250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification (subject to amendment by the applicant).

B. - B.3. ...

C. An application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than $500 and in no case shall a fee exceed $15,000 per project.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:

§505. Miscellaneous Capital Additions

A. - B.2. ...

C. An application fee shall be submitted with the MCA application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than $500 and in no case shall a fee exceed $15,000 per project.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:

§525. Effective Date of Contract; Project Completion Report

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with OBD on the prescribed Project Completion Report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of $250 shall be submitted with the form. The deadline for filing the Project Completion Report may be extended pursuant to §523.

B. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:

§527. Affidavit of Final Cost

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of $250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by OBD, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:

§529. Renewal of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with OBD on the prescribed form not more than six months before, and not later than ,the expiration of the initial contract. A fee of $250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of full compliance with the initial contract of exemption, the contract may be approved by the board for an additional period of up to but not exceeding five years.

B. ...

AUTHORITY NOTE: Promulgated in accordance with Article VII, Pan 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:

§533. Reporting Requirements for Changes in Operations

A. OBD is to be notified immediately of any change which affects the tax exemption contract. This includes any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of $250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:

§535. Sale or Transfer of Exempted Manufacturing Establishment

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of $250 shall be filed with a request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:

Anne G. Villa
Undersecretary

1507#015

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Ports of Louisiana Tax Credits (LAC 13:I.3903 and 3923)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Ports of Louisiana Tax Credits (R.S. 47:6036 et seq., and R.S. 51:921 et seq.), to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs

Chapter 39. Ports of Louisiana Tax Credits

Subchapter A. Investor Tax Credit

§3903. Preliminary Certification

A. - B.8. …

C. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is $500 and the maximum application fee is $15,000 for a single project;

D. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:2544 (November 2010), amended by the Department of Economic Development, Office of Business Development, LR 41:

§3923. Application

Subchapter B. Import-Export Tax Credit

A - E.3. …

F. An application fee equal to 0.5 percent (0.005) times the total anticipated tax incentive, with a minimum application fee of $500 and a maximum application fee of $15,000, shall be submitted with each application for import-export credits. The fee shall be made payable to Louisiana Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:2239 (November 2014), amended by the Department of Economic Development, Office of Business Development, LR 41:

Anne G. Villa
Undersecretary, LED

1507#014

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Quality Jobs Program (LAC 13:I.Chapter 11)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Quality Jobs Program (R.S. 51:2451 et seq., and R.S. 51:921 et seq.) to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 11. Quality Jobs Program

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of $250, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record *under Louisiana Revised Statutes*, title 44, chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. …

C. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is $500 and the maximum application fee is $15,000 for a single project;

3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of $250 must be filed with the renewal contract.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 41:

§1117. The Contract

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. - 5. …

6. A fee of $250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location.

B. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 41:

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of $250 shall be filed annually, commencing within six months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional six months provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. - 6. …

B. Sales and Use Tax Rebate or Investment Tax Credit

1. An annual employee certification report with a $250 annual employee certification report fee must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or investment tax credit under this Chapter. Employers must meet the requirements of the Enterprise Zone legislation and rules to qualify.

2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 41:

Anne G. Villa
Undersecretary

1507#013

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Research and Development Tax Credit
(LAC 13:I.2905)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Research and Development Tax Credit Program (R.S. 47:6015 and R.S. 51:921 et seq.) to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 29. Research and Development Tax Credit
§2905. Certification of Amount of Credit

A. …

B. The application for a credit certification shall be submitted on a form provided by the LED and shall include, but not be limited to the following information:

1. an application fee equal to 0.5 percent (0.005) times the total anticipated tax incentive with a minimum application fee of $500 and a maximum application fee of $15,000, payable to Louisiana Department of Economic Development;

B.2. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), LR 38:351 (February 2012), LR 40:51 (January 2014), LR 40:1526 (August 2014), LR 41:

Anne G. Villa
Undersecretary

1507#012

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Restoration Tax Abatement Program (LAC 13:I.Chapter 9)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Restoration Tax Abatement Program (LA Const. Art. 7, Sec. 21(H) and LA R.S. 47:4311 et seq.), to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 9. Restoration Tax Abatement Program
§903. Time Limits for Filing Application

A. The applicant shall submit an "advance notification" on the prescribed form prior to the beginning of construction. An advance notification fee of $250 shall be submitted with the advance notification form. The phase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins.

B. …

C. An application fee (effective May 4, 1988) shall be submitted with the application based on the following:

1. 0.5 percent of the estimated total five-year property tax exemption;

2. maximum application fee is $15000;

3. please make checks payable to: Louisiana Economic Development.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665 (October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992), amended by the Louisiana Economic Development Corporation, Office of Business Development, LR 41:

§913. Affidavit of Final Cost

A. Within six months after construction has been completed, an affidavit of final cost showing complete cost of the exempted project shall be filed on the prescribed form together with a fee of $250 for the inspection which will be conducted by the Office of Commerce and Industry (make check payable to the Office of Commerce and Industry).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:99 (February 1985), amended LR 12:665 (October 1986), amended by the Department of Economic Development, LR 18:254 (March 1992), amended by the Louisiana Economic Development Corporation, Office of Business Development, LR 41:

§921. Contract Renewal

A. - B.2. …

3. a renewal fee check for $250, payable to the Office of Commerce and Industry.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, LR 18:252 (March 1992), amended by the Louisiana Economic Development Corporation, Office of Business Development, LR 41:

Anne G. Villa
Undersecretary

1507#010

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Retention and Modernization Program
(LAC 13:I.3509)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the retention and modernization program (R.S. 51:2332 et seq., and R.S. 51:921 et seq.) to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 35. Retention and Modernization Program
§3509. Application Procedures

A. Beginning January 1, 2010, an applicant may apply for this program by submitting the following information to the department:

1. - 3. …

4. an application fee of 0.5 percent of the estimated tax credits, with a minimum application fee of $500 and a maximum fee of $15,000.

B. The department shall review the application and supporting information, and if it is found to be incomplete or if further information is needed shall contact the applicant business and request such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, and 51:2332 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 36:476 (March 2010), amended by the Louisiana Economic Development Corporation, Office of Business Development, LR 41:

Anne G. Villa
Undersecretary

1507#011

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Technology Commercialization Credit and
Jobs Program (LAC 13:I.2715)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development has an immediate need for rules for the Research and Development Tax Credit Program (R.S. 51:2351 et seq., and R.S. 51:921 et seq.), to effect fees under the new fee schedule provided by HB 773 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final rule is promulgated in accordance with law, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 27. Technology Commercialization Credit and Jobs Program
§2715. Application Fee
[Formerly §2711]

A.1. An application fee in the amount equal to 0.5 percent (0.005) times the total anticipated tax incentive with a minimum application fee of $500 and a maximum application fee of $15,000 shall be submitted with each application.

2. All fees shall be made payable to: Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353 and R.S. 51:936.2.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:980 (May 2004), amended LR 36:310 (February 2010), amended by the Office of Business Development, LR 41:

Anne G. Villa
Undersecretary

1507#009

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Entertainment Industry Development

Louisiana Digital Media and Software Act
(LAC 61:I.1667)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development and the Office of Entertainment Industry Development have an immediate need for rules for the Louisiana Digital Media and Software Act (R.S. 47:6022 et seq.) to effect fees under the new fee schedule provided by HB 773 and HB 604 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter D. Louisiana Digital Media and Software Act

§1667. Certification Procedures

A. Application

1. - 1.d. …

2. An application fee in the amount equal to 0.5 percent of the total estimated tax credits with a minimum fee of $500 and a maximum fee of $15,000 shall be submitted with each application.

3. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed $250, in the amounts set forth below.

a. For applicants with project expenditures less than $1,000,000, an advance deposit of $7,500, with a maximum fee of $15,000.

b. For applicants with project expenditures greater than $1,000,000, an advance deposit of $15,000, with a maximum fee of $25,000.

c. Any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs.

B. - D.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:633 (April 2009), amended LR 36:1983 (September 2010), LR 39:1011 (April 2013), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 41:

Anne G. Villa
Undersecretary

1507#024

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Entertainment Industry Development

Louisiana Sound Recording Investor Tax Credit Program
(LAC 61:I.1635)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development and the Office of Entertainment Industry Development have an immediate need for rules for the Louisiana Sound Recording Investor Tax Credit Program (R.S. 47:6023 et seq.) to effect fees under the new fee schedule provided by HB 773 and HB 604 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter C. Louisiana Sound Recording Investor Tax Credit Program

§1635. Rules of Application

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.

1. - 6. …

7. An application fee in the amount equal to 0.5 percent of the total estimated tax credits with a minimum fee of $500 and a maximum fee of $15,000 shall be submitted with each application.

8. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed $250, in the amounts set forth below.

a. For applicants with project expenditures greater than $5,000 but less than $50,000, an advance deposit of $2,500, with a maximum fee of $5,000.

b. For applicants with project expenditures greater than $50,000, an advance deposit of $5,000, with a maximum fee of $15,000.

c. Any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:305 (February 2010), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 41:

Anne G. Villa
Undersecretary

1507#026

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Entertainment Industry Development

Motion Picture Investor Tax Credit Program
(LAC 61:I.1607)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development and the Office of Entertainment Industry Development have an immediate need for rules for the Motion Picture Investor Tax Credit Program (R.S. 47:6007 et seq.) to effect fees under the new fee schedule provided by HB 773 and HB 604 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter A. Motion Picture Investor Tax Credit Program
§1607. Certification Procedures

A. Application and Expenditure Verification Report Fees

1. An application for initial certification shall be submitted with an application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of $500, and a maximum fee of $15,000, payable to the office, as required by R.S. 36:104.

a. - b.ii.(j). …

c. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed $250, in the amounts set forth below:

i. for applicants with project expenditures greater than $50,000 but less than $300,000, an advance deposit of $5,000, with a maximum fee of $10,000;

ii. for applicants with project expenditures greater than $300,000 but less than $25,000,000, an advance deposit of $7,500, with a maximum fee of $15,000;

iii. for applicants with project expenditures greater than $25,000,000, an advance deposit of $15,000, with a maximum fee of $25,000;

iv. any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs.

B. - E.2.e. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 41:

Anne G. Villa
Undersecretary

1507#023

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Entertainment Industry Development

Musical and Theatrical Production Income Tax Credit Program (LAC 61:I.1693)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). The Department of Economic Development and the Office of Entertainment Industry Development have an immediate need for rules for the Musical and Theatrical Production Income Tax Credit Program (R.S. 47:6034 et seq.) to effect fees under the new fee schedule provided by HB 773 and HB 604 of the 2015 Regular Session of the Louisiana Legislature. A delay in imposition of such fees would hinder effective administration of this program, impose unfunded and unrecoverable costs on the department, and delay access to the program by qualified applicants, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 1, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter E. Musical and Theatrical Production Income Tax Credit Program
§1693. Certification Procedures

A. Application and expenditure verification report fees

1. An application for a state-certified production or a state-certified infrastructure project shall be submitted to the department, including:

a. all information required by R.S. 47:6034(E)(2)(a);

b. an application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of $500, and a maximum fee of $15,000; and

c. the applicant shall provide additional information upon request.

2. Each application shall identify only one production or infrastructure project and only one contact person for such production or project.

3. Expenditure verification report fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed $250, in the amounts set forth below.

a. For applicants with project expenditures greater than $100,000, an advance deposit of $5,000, with a maximum fee of $15,000.

b. Any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs.

B. - E.1.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E) and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2238 (October 2010), amended LR 39:1016 (April 2013), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 41:

Anne G. Villa
Undersecretary

1507#025

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations
(LAC 28:CLXI.103, 507, 701, 703, 903, 1105, 1111, 1301, 1303, 1307, 1511, 1515, 1703, 1707, 1713, 1721, 1903, 1907 and 1921)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXI, *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §103, Definitions; §507, Criminal Background Checks for Owners; §701, Initial Application Process; §703, Initial Inspection Process; §903, Change of Ownership; §1105, Identified Violations and Fines; §1111, Payment of Fines; §1301, Reasons for Denial; Revocation or Refusal to Renew; §1303, Notice of Denial, Revocation or Refusal to Renew; §1307, Appeal of Denial, Revocation or Refusal to Renew; §1511, Procedures; §1515, Child Records and Cumulative Files; §1703, Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors; §1707, Required Staff; §1713, Supervision; §1721, Continuing Education; §1903, Physical Environment; §1907, Furnishings and Equipment; and §1921, Emergency Preparedness and Evacuation Planning. This Declaration of Emergency, effective July 1, 2015, will remain in effect for a period of 120 days or until finally adopted as a Rule.

Act 868 (Early Learning Center Act) of the 2014 Regular Legislative Session transferred licensing authority from the Department of Children and Family Services (DCFS) to the Louisiana Department of Education (LDE) effective October 1, 2014. The law requires BESE to establish statewide minimum standards for the health, safety and well-being of children in early learning centers, ensure maintenance of these standards, and regulate conditions in early learning centers through a program of licensing administered by the LDE. As required by law, the LDE has worked with various stakeholders including early learning center providers (child care, Head Start/Early Head Start, nonpublic), the state sanitarian, the fire marshal, the Department of Health and Hospitals, and the Department of Children and Family Services.

The revisions to the regulations make technical changes and add clarifications where needed; ensure children can receive therapeutic services in appropriate settings from professionals; and enable type III early learning centers (child care and Head Start) to allow staff from other centers perform classroom observations (CLASS® observations). To provide for implementation of the licensing regulations prior to the start of the 2015-2016 school year, BESE has exercised the emergency provision in the adoption of this policy revision.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
Chapter 1. General Provisions
§103. Definitions

* * *

Criminal Background Check (CBC)—a certified copy of the personal criminal history information record for owners, applicants for employment, staff, volunteers, visitors, and independent contractors who will be performing services at an early learning center. A CBC is obtained by the early learning center from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 17:407.42.

* * *

Direct Supervision—see *supervision*.

* * *

Independent Contractors—individuals who are not employees of the center, but who render professional, therapeutic, or enrichment services within an early learning center. Independent contractors include, but are not limited to, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals, local school district staff, Department of Education staff, contracted bus drivers, cafeteria and maintenance personnel, electricians, plumbers and photographers, and other outside contractors.

* * *

Non-Vehicular Excursion—any activity that takes place outside of the licensed area that is within a safe, reasonable, walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

* * *

Right to Review (RTR)—a certified copy of an individual's personal criminal history information record obtained by the individual from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 15.588.

* * *

Supervision—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. Supervision requires physical presence with visual contact, accountability for care of the children, knowledge of activity requirements, and knowledge of the abilities and needs of the children.

* * *

Therapeutic Professionals—independent contractors who provide therapeutic services in an early learning center, including but not limited to speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals who are employed by a local school district or the Department of Health and Hospitals (DHH) or who are working pursuant to an EarlySteps contract with DHH, to provide therapeutic services in an early learning center to a child with a disability that has an active individual education plan (IEP) or individual family service plan (IFSP). Therapeutic professionals are not required to be under the supervision of center staff when providing such services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 5. Ownership of Early Learning Centers

§507. Criminal Background Checks for Owners

A. All owners of an early learning center shall provide the center documentation of a satisfactory fingerprint-based *right to review (RTR)*, as defined in §103, obtained from the Louisiana Bureau of Criminal Identification and Information (bureau) or provide the center with the information, signatures and fingerprints necessary for the center to obtain documentation of a fingerprint based criminal background check (CBC) from the bureau. A copy of an RTR or a CBC shall be submitted for each owner with an initial application for licensure and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

1. CBC from Bureau. An early learning center may request a CBC from the bureau for any owner by submitting a request to the bureau that shall be made on a form prepared by the bureau, signed by a responsible officer or official of the center, and include a statement signed by the person about whom the request is being made giving permission for such information to be released and the person's fingerprints in a form acceptable to the bureau.

2. RTR from Bureau. An owner of a center may provide an RTR obtained from the bureau to the center, and it shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one year expiration of an owner-provided RTR, a new satisfactory fingerprint based CBC shall be obtained by the center or the person is no longer eligible to own, operate, or participate in the governance of the center.

3. …

B. New members and owners that are to be added to a partnership, church, corporation, limited liability company or governmental entity, even if such change does not constitute a change in ownership for licensing purposes, shall provide the center with documentation of a satisfactory RTR or the information, signatures and fingerprints necessary for the center to obtain a CBC in the same manner as original owners and members.

C. A CBC or RTR is satisfactory for purposes of this Bulletin if it shows no arrests for any offense, enumerated in R.S. 15:587.1(C) or §505.B of this Bulletin or if an arrest is shown on the CBC or RTR for any enumerated offense, the CBC or RTR or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

D. If a CBC or RTR shows that any owner, operator or other participant in the governance of the center has been convicted of or pled guilty or nolo contendere of any enumerated offense under R.S. 15:587.1(C), or those crimes of fraud listed in §505.B, the center, upon receipt of the result, shall submit the information to the Licensing Division within 24 hours or no later than the next business day, whichever is sooner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 7. Licensing Process and Procedures

§701. Initial Application Process

A. - C. …

D. Review of Licensing Packet

1. If a submitted application is incomplete, the Licensing Division shall notify the applicant of the missing information.

a. The applicant shall have 21 calendar days from receipt of notification to submit the additional information.

b. If the Licensing Division does not receive the additional information within 21 calendar days of notification, the application shall be closed and the application fee shall be forfeited.

c. Once an application has been closed, an applicant still interested in obtaining a license must submit a new application and application fee.

D.2. - E.9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:

§703. Initial Inspection Process

A. - A.2. …

3. If an initial inspection indicates that an early learning center is not in compliance with all minimum standards, with the exception of the standards listed in Paragraph A.4 of this Section, the Licensing Division may deny the application.

4. If the initial inspection indicates that a center is in compliance with all but the following standards, the center will be allowed 90 calendar days from receipt of the initial completed application to submit documentation of compliance with the following, and the application may be denied if the information is not received within the 90 calendar days:

a. Office of State Fire Marshal approval;

b. city fire approval, if applicable;

c. Office of Public Health approval;

d. Office of Early Childhood approval, if type III center;

e. documentation of a satisfactory fingerprint based criminal background check for all staff not previously provided; and

f. documentation of a completed state central registry disclosure form noting indicating no justified (valid) finding of abuse and/or neglect of a child or a finding from DCFS that the person does not pose a risk to children for all staff not previously provided.

B. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended L 41:

Chapter 9. Changes Requiring a New License

§903. Change of Ownership

A. - B. …

C. Any of the following constitute a change of ownership:

1. change in federal tax ID number;

2. change in state tax ID number;

3. change in profit status;

4. any transfer of partial or full ownership of the center from an individual or juridical entity to any other individual or juridical entity;

5. termination of child care services by one owner and beginning of services by a different owner without a break in services to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 11. Operating Violations and Incidents; Fines; Appeals

§1105. Identified Violations and Fines

A. For violations related to the following licensing standards, when such violation does not pose an imminent threat to the health, safety, rights, or welfare of a child, the Licensing Division may issue a written warning in lieu of revoking or refusing to renew the license:

A.1. - C.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:

§1111. Payment of Fines

A. Fines for violations of licensing standards listed in §1105.A are due within 30 calendar days of receipt of written notice of assessment of fines, unless the center timely submits a request for departmental reconsideration.

B. …

C. If the department timely receives a request for an administrative appeal for an assessment of fines based on a violation of the licensing standards listed in §1105.A and said assessment is affirmed by the DAL, the fine shall be due and payable within 30 calendar days of receipt of notice of the decision by the DAL, unless the center timely seeks judicial review of the administrative decision.

D. …

E. If a center does not timely pay a fine for a violation of the licensing standards listed in §1105.A:

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 13. Denial, Revocation or Non-Renewal of License

§1301. Reasons for Denial, Revocation or Refusal to Renew

A. - A.13. …

14. any instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, or physical or sexual abuse or neglect, if the owner is responsible or if the employee who is responsible remains in the employment of the center;

15. - 16. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:

§1303. Notice of Denial, Revocation or Refusal to Renew

A. …

B. The denial, revocation or refusal to renew shall be effective when notice is given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:

§1307. Appeal of Denial, Revocation or Refusal to Renew

A. - B. …

C. A center may continue to operate during the appeals process, as provided by the Administrative Procedure Act found at R.S. 49:950 et seq.

D. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 15. Minimum General Requirements and Standards

§1511. Procedures

A. - A.3. …

4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:

§1515. Child Records and Cumulative Files

A. - A.2. …

3. written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, including any other early learning centers, transportation services, and any person or persons who may remove the child from the center:

a. the parent may further authorize additional individuals via a text message, fax, or email to the center in unplanned situations and follow it with a written authorization;

A.3.b. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 17. Minimum Staffing Requirements and Standards

§1703. Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors

A. Volunteers and Staff. An early learning center shall obtain a satisfactory fingerprint based criminal background check (CBC) from the bureau for each volunteer, staff member, or employee of any kind, prior to the person being present at the center or performing services for the center, and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

1. A CBC for volunteers and staff shall be dated no earlier than 30 calendar days of the individual's hire date.

2. If volunteers or staff leave the employ of the center for more than 30 calendar days, a new satisfactory CBC shall be obtained prior to the individual being rehired or present on the early learning center premises.

a. For CBC purposes, volunteers or staff who are working at a center at the end of a school year, are off during the summer as part of the center's scheduled yearly calendar dates of operation, and return to work at the same center for the beginning of the school year immediately following the summer they are off, are not considered to have left the employ of the center during the intervening summer.

B. Visitors and Contractors. An early learning center shall obtain documentation of a satisfactory fingerprint-based CBC or RTR for each visitor or independent contractor of any kind, prior to the person being present at the center or performing services for the center unless the visitor or independent contractor, other than *therapeutic professionals* as defined in §103, will be accompanied at all times while on the center premises by an adult, paid, staff member who is not being counted in child-to-staff ratios, and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

B.1. - C.2. …

D. CBC from Bureau. An early learning center may request a CBC from the bureau for any applicant, volunteer or staff member or independent contractor by submitting a request to the bureau that shall be made on a form prepared by the bureau, be signed by a responsible officer or official of the center, and include a statement signed by the person about whom the request is being made giving permission for such information to be released and the person's fingerprints in a form acceptable to the bureau.

E. A CBC or RTR is satisfactory if it shows no arrests for any crime included in R.S. 15:587.1(C), or if an arrest is shown on the CBC or RTR for any excludable offense, the CBC or RTR or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

F. RTR from Bureau

1. Applicant. If an applicant for employment has previously obtained an RTR from the bureau, it shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one-year expiration of the RTR, a satisfactory fingerprint-based CBC shall be obtained by the center for the volunteer or staff member in order for the individual to continue employment at the center. If a new CBC is not obtained prior to the one-year expiration of the RTR, the individual is no longer allowed on the early learning center premises until a new satisfactory CBC is obtained by the center.

2. Visitor or Contractor. An RTR for a visitor or independent contractor shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one year expiration of the RTR, a new fingerprint based satisfactory CBC shall be obtained by the center or a new RTR shall be obtained by the visitor or independent contractor in order for the visitor or contractor to be present at the center. If a CBC is not obtained by the center or a new RTR is not obtained by the visitor or contractor and provided to the center prior to the one year expiration, the visitor or contractor is no longer allowed on the early learning center premises until a new satisfactory CBC is obtained by the center or a new satisfactory RTR is provided to the center.

G. Court-Appointed Special Advocate. A court-appointed special advocate (CASA volunteer) shall submit to an early learning center his or her CASA volunteer order of assignment that is signed by a juvenile court judge and the CASA volunteer, and it shall be accepted by the center as documentation of a satisfactory fingerprint based CBC for

the CASA volunteer pursuant to *Louisiana Children's Code* Art. 424.1(D).

H. CBC Affidavits/CBC Annual Letters

1. First School Year—CBC Affidavit

a. If all requirements of this Subsection are met, the following individuals for whom their respective employers have previously obtained a satisfactory fingerprint-based CBC from the bureau, may submit to an early learning center a CBC affidavit, and the center shall accept the CBC affidavit as documentation of a satisfactory fingerprint-based CBC for the school year for which it is executed:

i. local school district staff;

ii. Department of Education staff;

iii. Department of Health and Hospitals (DHH) staff; and

iv. type III early learning center staff providing classroom observations in early childhood care and education classrooms pursuant to Chapter 5 of BESE *Bulletin 140—Louisiana Early Childhood Care and Education Network*.

b. The CBC affidavit shall be signed by the:

i. local school superintendent, or his/her designee, for local school district staff;

ii. state superintendent of education, or his/her designee, for Department of Education staff;

iii. secretary of DHH, or his or her designee, for DHH staff; and

iv. director of the type III early learning center, or his or her designee, for the early learning center staff. The designee for this purpose is not a "director designee" as defined in §103 and does not have to meet director qualifications.

c. The CBC affidavit shall be valid if it:

i. is in the form prescribed by the Licensing Division;

ii. expressly states that the person signing the affidavit is certifying that the affidavit is being provided for a current employee for whom a satisfactory finger-print based CBC has been previously obtained by the local school district, department or early learning center;

iii. is signed by the appropriate individual provided in Subparagraph H.1.b of this Section; and

iv. is an original, completed, and notarized affidavit.

d. The CBC affidavit shall be valid for the school year in which it is executed and shall expire on July 31 following the end of the school year.

e. The center shall have a copy of the CBC affidavit on-site at all times and available for inspection upon request by the Licensing Division.

2. Subsequent School Years—CBC Annual Letters

a. In all subsequent school years following the school year in which a CBC affidavit is presented, the individuals listed in Subparagraph H.1.a of this Section, may present either a new CBC affidavit or CBC annual letter to an early learning center, and the center shall accept the CBC affidavit or the CBC annual letter as documentation of a satisfactory CBC for the school year for which it is executed or signed.

b. The CBC annual letter shall:

i. be presented on the appropriate school district, department or early learning center letterhead;

ii. be in the form prescribed by the Licensing Division;

iii. expressly state that the individual for whom the letter is provided has remained employed by the local school district, department, or the early learning center indicated in the original CBC affidavit presented to the center; and

iv. be signed by the appropriate individual listed in Subparagraph H.1.b of this Section.

c. The CBC annual letter shall be accepted by the early learning center only if the early learning center has a copy of the CBC affidavit on file for the individual.

d. The CBC annual letter shall be valid for the school year in which it is signed and shall expire on July 31 following the end of the school year.

e. The center shall have a copy of the CBC annual letter and the CBC affidavit on-site at all times and available for inspection upon request by the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015, amended LR 41:

§1707. Required Staff

A. - B.2. …

C. More than 42 Children in Care. When the number of children present at an early learning center exceeds 42, the duties of the director or director designee shall consist only of performing administrative duties or there shall be an individual present whose job duties consist solely of administrative duties and of ensuring that staff members working with children do not leave their classrooms to handle administrative duties.

D. Staff

1. Staff shall be age 18 or older.

2. A person age 17 may be included in the child-to-staff ratio if the person works under the direct supervision of an adult staff member.

3. In type I centers only, a person age 16 may be included in the child-to-staff ratios if the person works under the direct supervision of an adult staff member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 41:

§1713. Supervision

A. Children shall be supervised at all times in the center, on the playground, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

B. Children shall not be left alone in any room, (except the restroom as indicated in Subsection G of this Section or when being provided services by therapeutic professionals, as defined in §103), outdoors, or in vehicles, even momentarily, without staff present.

C. - I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:634 (April 2015), effective July 1, 2015, amended LR 41:

§1721. Continuing Education

A. Early learning centers shall provide opportunities for continuing education of staff members. The center staff of type II and type III centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of training annually in the topics found in §1719.A and B. The center staff of type I centers, excluding foster grandparents, shall obtain a minimum of 3 clock hours of training annually in the topics found in §1719.A and B. Trainings for all types of centers shall be conducted by trainers approved by the Licensing Division. The Licensing Division shall keep a registry of approved trainers. Beginning July 1, 2015, type I center staff shall obtain a minimum of 6 clock hours of such training annually. Beginning July 1, 2016, type I center staff shall obtain a minimum of 9 clock hours of such training annually. Beginning July 1, 2017, type I center staff shall obtain a minimum of 12 clock hours of such training annually.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1903. Physical Environment

A. - D.1. …

2. The maximum number of children in care at one time, whether on or off the premises, shall not exceed the capacity as specified on the current license.

D.3. - E.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:

§1907. Furnishings and Equipment

A. - D.3. …

E. Cribs

1. Children are prohibited from sleeping in playpens or cribs with mesh sides.

2. Cribs shall be free of toys and other soft or loose bedding, including comforters, blankets, sheets, bumper pads, pillows, stuffed animals and wedges when the child is in the crib.

F. - F.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:

§1921. Emergency Preparedness and Evacuation Planning

A. - D. …

E. Tornado Drills. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June at various times of the day necessary to include all children and shall be documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:

Charles E. "Chas" Roemer, IV
President

1507#003

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations—Operating Without a License; Registry; Penalties (LAC 28:CLXI.305)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLX, *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §305, Operating Without a License; Registry; Penalties. This Declaration of Emergency, effective June 18, 2015, will remain in effect for a period of 120 days.

The law requires BESE to establish statewide minimum standards for the health, safety and well-being of children in early learning centers, ensure maintenance of these standards, and regulate conditions in early learning centers through a program of licensing administered by the LDE. To immediately increase the ability of the Department of Education, local law enforcement and local education agencies to protect children from attending child care centers that are unregulated, BESE has exercised the emergency provision in the adoption of this policy revision.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 3. Licensure

§305. Operating Without a License; Registry; Penalties

A. Whoever operates any early learning center without a valid license shall be fined by the Licensing Division not less than $1,000 per day for each day of such offense.

B. If an early learning center is operating without a valid license, the Licensing Division shall file suit for injunctive relief in the district court in the parish in which the center is located to enjoin the owner or operator from continuing the violation.

C. Upon receipt of a court order enjoining an individual from operating an early learning center without a valid, current early learning center license, the department shall notify local law enforcement, the local superintendent, and the early childhood community network lead agency, if different, in the parish in which the unlicensed care was provided, and in the parish in which the individual resides, if known and different from the parish in which the unlicensed care was provided, of the existence of such a court order.

D. The department shall publish on its website in a statewide registry the names of individuals that have an existing court order prohibiting them from operating an early

learning center without a current, valid early learning center license and that do not currently operate a center with a current valid license. The registry shall at a minimum include the name of the individual, the name of the center under which the unlicensed care was provided, and the parish in which the unlicensed care was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.37.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 41:

Charles E. "Chas" Roemer, IV
President

1507#002

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.Chapters 1-11)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to establish LAC 28:CLXV, *Bulletin 139—Louisiana Child Care and Development Fund Programs*. This Declaration of Emergency, effective July 1, 2015, will remain in effect for a period of 120 days.

To prevent a lapse in policy when lead agency authority of Child Care and Development Fund (CCDF) transfers from the Department of Children and Family Services (DCFS) to the LDE on July 1, 2015, BESE has exercised the emergency provision in the adoption of this policy.

Title 28
EDUCATION
Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs
Chapter 1. Child Care Assistance Program
§101. Authority

A. The Louisiana Child Care Assistance Program is established pursuant to the Child Care and Development Block Grant Act of 2014 (CCDBG) and administered by the Louisiana Department of Education (department) under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 9858, 45 CFR Parts 98 and 99 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§103. Definitions

Automated Child Care Time and Attendance—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance data. This system may utilize an adult's finger image or IVR interactive voice response (IVR) as a mechanism for capturing this data.

BESE—Board of Elementary and Secondary Education.

BESE Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years.

BESE Bulletin 137—Louisiana Early Learning Center Licensing Regulations.

Bureau—Louisiana Bureau of Criminal Identification and Information.

Caregiver—any person legally obligated to provide or secure care for a child, including a parent, legal custodian, foster home parent, or other person providing a residence for the child.

CBC—criminal background check.

CCAP—Child Care Assistance Program.

CCAP Provider—a child care provider certified by the Department of Education as eligible to receive CCAP payments.

Certification—verification by the department of eligibility to participate in CCAP and receive CCAP payments.

Certified—eligible to participate in CCAP.

Child—a person who has not yet reached the age 13, or a person with special needs who has not yet reached age 18. The words "child" and "children" are interchangeable in this Bulletin.

Child and Adult Care Food Program—federal nutrition reimbursement program as funded by the U.S. Department of Agriculture through the Department of Education.

Child Care and Development Fund (CCDF)—federal program whose purpose is to increase the availability, affordability and quality of child care for eligible families.

Child Care Assistance Program (CCAP)—program funded through the CCDF that makes payments to eligible child care providers for child care services provided to eligible families.

Child Care Center—any place or center operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least 12 1/2 hours in a continuous seven-day week.

Child Care Provider—an early learning center, family child care provider, in home child care provider, military child care center or school child care center.

Child Care Resource and Referral (CCR and R)—a state or local organization with whom the department has contracted to provide services to families, early childhood professionals, and communities statewide.

Criminal Background Check (CBC)—a certified copy of a person's criminal history information record obtained from the Louisiana Bureau of Criminal Identification and Information.

DCFS—Louisiana Department of Children and Family Services.

Department—Louisiana Department of Education.

Early Learning Center—any child day care center, Early Head Start center, Head Start center, or stand-alone prekindergarten program that is not attached to a school.

1. *Type I Early Learning Center*—an early learning center that is owned or operated by a church or religious organization that is qualified as a tax exempt organization under §501(c) of the *Internal Revenue Code* and that receives no state or federal funds directly or indirectly from any source.

2. *Type II Early Learning Center*—an early learning center that either receives no state or federal funds directly or indirectly from any source or whose only source of state

or federal funds is from U.S. Department of Agriculture's food and nutrition programs.

3. *Type III Early Learning Center*—an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

Family Child Care Provider—one individual who provides child care services for fewer than 24 hours per day per child, as the sole caregiver, for six or fewer children, in a private residence.

Family Independence Temporary Assistance Program (FITAP)—program administered by the Department of Children and Family Services (DCFS) that provides cash assistance to families with dependent children.

Finger Imaging—the measurement of physical characteristics of an adult's finger for use in personal identification.

FITAP—Family Independence Temporary Assistance Program.

Full-Time Care—child care calculated to be 30 or more hours per week that is paid in units of days or half days with a maximum of 22 days per month.

Helping Individuals Reach Employment (HiRE)—system through which job seekers may file for unemployment and search for jobs that match their experience and interest.

Homeless—lacking a fixed, regular, and adequate nighttime residence. The term "homeless" shall encompass children and youths experiencing the particular conditions and situations provided for in subtitle B of title VII of the McKinney-Vento Education for Homeless Children and Youth Act, 42 U.S.C. 11434a(2).

Household Designee (HD)—an adult who is designated in writing by the CCAP head of household, other responsible household member, or authorized representative to drop-off and pick-up the child or children from a CCAP provider. In the case of an in-home provider, a household designee is the person to whom the provider may release the child or children when the provider leaves the home.

Ineligibility Period for Providers—period of time following the termination of a CCAP provider's certification during which the provider is ineligible for certification.

In-Home Child Care Provider—an individual who provides child care services in the child or children's own home.

Intentional Program Violation (IPV)—any act by a CCAP household member that consists of intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant facts.

IPV—intentional program violation.

Licensing Division—Department of Education, Licensing Division.

Louisiana Bureau of Criminal Identification and Information (Bureau)—bureau within the Office of State Police that maintains a central repository of criminal history record information in Louisiana.

Louisiana Pathways Early Learning Center Career Development System (LA Pathways)—the state practitioner registry maintained by the department or its contractor. LA pathways registers early learning center directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the department. Categories are established for early learning center staff, early learning center assistant teacher, early learning center teacher, early learning center assistant director and early learning center director.

Military Child Care Center—child care centers licensed by the U.S. Department of Defense.

MUP—minor unmarried parent.

Notice—written notice is considered given:

1. when it is sent by email or fax to the last email address or fax number furnished to the department;
2. when it is hand-delivered; or
3. on the fifth calendar day after it was mailed to the last mailing address furnished to the department.

Parent—includes parent, legal custodian or other person standing in loco parentis.

Part-Time Care—authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

Pathways—Louisiana early learning center career development system (LA pathways).

Quality Start Child Care Rating System—system designed to assess the level of quality of early care and education programs serving birth through age five, communicate the level of quality, and support improvements of type III early learning centers.

Relative or Related—the child, grandchild, niece, or nephew of the family child care provider.

School Child Care Center—any prekindergarten, or before and after school programs, or summer programs operated by a public school or a BESE-approved nonpublic school.

Seeking Employment—register for work with Louisiana Workforce Commission (LWC) by creating a helping individuals reach employment (HiRE) account and by maintaining an active work registration within their HiRE account.

SNAP—see Supplemental Nutrition Assistance Program.

Special Needs Child Care—child care for a child through age 17 who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to 25 percent higher than the regular rates can be allowed for a special needs child if the provider is actually providing the specialized care.

STEP—Strategies to Empower People Program.

Strategies to Empower People Program (STEP)—program administered by DCFS to provide opportunities for work eligible families of FITAP to receive job training, employment, and supportive services.

Supplemental Nutrition Assistance Program (SNAP)—federal program administered by DCFS that provides monthly benefits to that help eligible low income households buy food needed for good health.

TEMP—training or employment mandatory participant.

Training or Employment Mandatory Participant (TEMP)—a household member who is required to meet criteria described in §505.B.4 which includes the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need CCAP, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who

is unable to care for the MUP's child(ren) while the MUP goes to school or work.

Transitional Living Program—any residential program or facility providing housing to homeless people, including but not limited to: emergency shelters; runaway and homeless youth residential programs or facilities; programs for parenting youth; programs for individuals who are fleeing domestic violence, dating violence, sexual assault, or stalking; transitional housing programs; and prisoner reentry programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 3. CCAP Provider Certification

§301. Certification of Child Care Provider's Eligibility for Participation in CCAP

A. A child care provider must be certified by the Department of Education (department) as eligible for participation in the Child Care Assistance Program (CCAP) in order to become a CCAP provider and receive CCAP payments. No CCAP payments may be made to a child care provider until the provider is certified by the department.

B. To be certified as a CCAP provider, a child care provider must meet all general and specific certification requirements set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§303. Types of Child Care Providers that May Apply for Certification

A. The following types of child care providers may apply for certification:

1. type III early learning centers;
2. family child care providers;
3. in-home child care providers;
4. school child care centers; and
5. military child care centers.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§305. General Certification Requirements for All Child Care Providers

A. To be certified as a CCAP provider, a child care provider must meet the following requirements:

1. provider agreement. Complete and sign a provider agreement furnished by the department and meet all requirements contained therein;

2. email address. Provide a current email address and notify the department immediately upon a change in such email address by submitting a written amendment/change to the provider agreement;

3. time and attendance. Participate in the time and attendance system designated by the department and possess the minimum equipment necessary to operate the system;

4. direct deposit. Provide complete and accurate documentation and information required for direct deposit;

5. photo identification. Provide copies of government-issued photo identification and Social Security cards for the person signing the provider agreement;

6. mandatory reporting requirements. Comply with all mandatory reporting requirements for suspected cases of child abuse or neglect; and

7. additional requirements. Meet additional requirements for the specific type of child care provider set forth in §§309-317.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 9858 et seq., 45 CFR Parts 98 and 99, R.S. 17:407.28 and R.S. 17:407.61 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§307. Specific Certification Requirements for Type III Early Learning Centers

A. To be certified as a CCAP provider, a type III early learning center must meet the requirements in §305 and have a valid type III early learning center license issued by the Licensing Division pursuant to R.S. 17:407.31 et seq.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§309. Specific Certification and Registration Requirements for Family Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, a family child care provider must meet the following requirements, which include but are not limited to the requirements for registration as a family child care provider pursuant to R.S. 17:407.61 et seq.

1. Age. Be at least age 18.

2. Number of Children in Care. Care for no more than six children who are under age 13, or children with special needs who are under age 18.

3. Telephone. Have a working telephone that is capable of receiving incoming and making outgoing calls and that is available at all times in the residence in which care is being provided.

4. Costs. Pay costs necessary to obtain required criminal background checks.

5. State Fire Marshal. Provide written verification of current State Fire Marshal approval for the residence where care is being provided.

6. State Central Registry. Provide written certification that the provider, all adults employed in the residence and on the property of the residence where care is provided, and all adults living in the residence where care is provided have not been the subject of a validated finding of child abuse or neglect by completing a state central registry disclosure form.

7. Criminal Background Checks. Provide documentation of a satisfactory fingerprint based criminal background check (CBC) from the Louisiana Bureau of Criminal Identification and Information (bureau) for the provider, all adults employed in the residence and on the property of the residence where care is provided, and all adults living in the residence where care is provided.

a. Electronic fingerprints shall be used in all parishes where they are available.

b. A satisfactory CBC is one that shows no arrests for any crime listed in R.S. 5:587.1(C), or if such an arrest is shown, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

8. CPR. Provide documentation of current certification in infant, child and adult CPR.

9. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.

10. Orientation Training. Within six months of initial certification, complete the following training, maintain documentation verifying completion of the training, and make the documentation available for inspection upon request by the department:

a. a four hour training that includes, at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

i. prevention and control of infectious disease;

ii. immunization schedules and requirements;

iii. prevention of sudden infant death syndrome and use of safe sleeping practices;

iv. prevention of and response to emergencies due to food and allergic reactions; and

v. prevention of shaken baby syndrome and abusive head trauma;

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

11. Annual Training. Annually complete 12 clock hours of training in job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Orientation training counts toward the annual training requirement in the certification period taken.

12. Transportation. If transportation is provided, the provider shall use child safety restraints required by law, take precautions necessary to ensure the safety of children being transported, and develop emergency procedures and actions to be taken in the event of an accident or breakdown.

13. Parental Consent. Obtain written permission from a parent to administer medication to a child in care.

14. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

15. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

16. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

17. Emergency Planning. Have appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided posted in a prominent, easily visible location, and have a written emergency plan that protects children in the event of fire, flood, storm, hurricane, tornado, and snow and ice.

18. First Aid Supplies. Maintain first aid supplies in the residence.

19. Inspections. Allow inspection of the residence where care is provided by department staff and other authorized inspection personnel and parents of children in care, during normal working hours and when children are in care.

B. Family child care providers receiving CCAP payments or certified to receive CCAP payments shall be inspected no less than annually by department staff or other authorized inspection personnel.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§311. Specific Certification Requirements for In-Home Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, an in-home care provider must meet the following requirements, which include but are not limited to the requirements for registration as an in-home provider pursuant to R.S. 17:407.61 et seq.

1. Age. Be at least age 18.

2. Telephone. Have a working telephone that is capable of receiving incoming and making outgoing calls and that is available at all times in the home in which care is being provided.

3. Costs. Pay costs necessary to obtain required criminal background checks.

4. State Fire Marshal. Provide written verification of current State Fire Marshal approval for the home where care is being provided.

5. State Central Registry. Provide written certification that the provider, all adults employed in the home and on the property of the home where care is provided, and all non-caregiver adults living in the home where care is provided have not been the subject of a validated finding of child abuse or neglect by completing a state central registry disclosure form.

6. Criminal Background Checks. Provide documentation of a satisfactory fingerprint based criminal background check (CBC) from the Louisiana Bureau of Criminal Identification and Information (bureau) for the provider, all adults employed in the home and on the property of the home where care is provided, and all non-caregiver adults living in the home where care is provided.

a. Electronic fingerprints shall be used in all parishes where they are available.

b. A satisfactory CBC is one that shows no arrests for any crime listed in R.S. 5:587.1(C), or if such an arrest is shown, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of

without a conviction. A plea of guilty or *nolo contendere* shall be deemed to be a conviction.

7. CPR. Provide documentation of current certification in infant, child and adult CPR.

8. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.

9. Orientation Training. Within six months of initial certification, complete training on the following. Documentation verifying completion of the trainings shall be maintained by the provider and available for inspection upon request by the department:

a. a four hour training that includes at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

i. prevention and control of infectious disease;

ii. immunization schedules and requirements;

iii. prevention of sudden infant death syndrome and use of safe sleeping practices;

iv. prevention of and response to emergencies due to food and allergic reactions; and

v. prevention of shaken baby syndrome and abusive head trauma; and

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

10. Annual Training. Annually complete 12 clock hours of training in job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Orientation training counts toward the annual training requirement in the certification period taken.

11. Transportation. If transportation is provided, the providers shall use child safety restraints required by law, take precautions necessary to ensure the safety of children being transported, and develop emergency procedures and actions to be taken in the event of an accident or breakdown.

12. Parental Consent. Obtain written permission from a parent to administer medication to a child in care.

13. Immunizations. Obtain satisfactory evidence of immunization against, or of an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

14. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

15. Building and Physical Premises. Identify and protect children from safety hazards in the home and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

16. Emergency Planning. Have appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the home in which care is provided posted in a prominent, easily visible location, and have a written emergency plan that protects children in the event of fire, flood, storm, hurricane, tornado, and snow and ice.

17. First Aid Supplies. Maintain first aid supplies in the home.

18. Inspections. Allow inspection of the home where care is provided by department staff and other authorized inspection personnel during normal working hours and when children are in care.

B. In-home child care providers receiving CCAP payments or certified to receive CCAP payments shall be inspected no less than annually by department staff or other authorized inspection personnel.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§313. Specific Certification Requirements for Public School and BESE-approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, a public or BESE-approved nonpublic school day care center must meet the requirements in §305, and in addition, a BESE-approved nonpublic school day care center must also be *Brumfield v. Dodd*-approved.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§315. Specific Certification Requirements for Military Child Care Centers

A. To be certified as a CCAP provider, a military child care center must meet the requirements in §305 and have a valid child care license issued by the U.S. Department of Defense.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§317. Individuals and Entities Categorically Ineligible for Certification as CCAP Providers

A. The following entities and individuals are categorically ineligible for certification as CCAP providers:

1. type I and type II early learning center; or

2. child care providers providing care outside of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§319. Caregiver's Ineligibility for CCAP Payments

A. A caregiver, even if certified to receive CCAP, may not receive CCAP payments for the caregiver's own

children, foster children, or other children in the caregiver's custody.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§321. Revocation or Refusal of Renewal of Certification and Ineligibility Periods for Providers

A. The department may revoke or refuse renewal of a provider's certification and impose a period of ineligibility on the provider for program violations, which include but are not limited to the following:

1. violation of any provision of this Chapter;

2. violation of any terms of the CCAP provider agreement;

3. any act of fraud, such as the submission of false or altered documents or information, intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant fact;

4. failure to take steps or actions necessary to ensure the health, safety and well-being of children in care;

5. failure to report a known or suspected incident of abuse or neglect to child welfare authorities;

6. denial of center access to department staff or representatives or failure or refusal to cooperate with department staff in the performance of official duties;

7. failure to timely comply with a corrective action plan approved by the department;

8. failure to timely return any overpayment of child care assistance funds; or

9. failure to make timely restitution.

B. When certification is revoked or renewal is refused, the department shall provide written notice to the provider of the revocation or denial of renewal, and of the provider's ineligibility period, which may be 12 months, 24 months, or permanently.

C. Where the department determines a violation need not result in the revocation of or refusal to renew the provider's certification, the department may:

1. for the first violation, issue a written notice of violation that informs provider that continued or additional violations may result in the revocation or refusal to renew certification and a period of ineligibility;

2. for the second violation, issue a second written notice of violation that includes a corrective action plan (CAP) that outlines the required actions that must be implemented or completed immediately and notice that failure to timely complete the CAP or additional or continued violations may result in the revocation or refusal to renew certification and a period of ineligibility; and

3. for the third violation, terminate certification and impose a period of ineligibility of 12 months, 24 months or permanently.

D. If certification is revoked or renewal is refused, the action shall become effective when the provider is notified in writing. The written notice shall give the reason for revocation or refusal to renew certification.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 5. CCAP Household Eligibility

§501. Certification of Household Eligibility for Participating in CCAP

A. The household in which a child who needs child care resides must be certified by the department as eligible for participation in CCAP in order to have CCAP payments made to a CCAP provider for the care of a child in the household. No CCAP payments may be made for the care of a child until the household is certified by the department as eligible for participation in CCAP.

B. To be certified as a CCAP household, a household must meet all the eligibility requirements set forth in this Chapter.

1. A household is a group of individuals living together that consists of a head of household, that person's legal spouse or non-legal spouse, disabled adult parents who are unable to care for themselves or their child(ren) who are in need of care, and all children under the age of 18 who are dependent on the head of household or spouse, including the minor unmarried parents (MUPs) who are not legally emancipated, and children of MUPs.

2. The head of household is an individual with whom the child customarily resides more than half the time. The head of household is either the child's parent or an adult household member with primary responsibility for the child's financial support and care, if the parent is not living in the home or is living in the home but is under age 18 and not emancipated by law, or is disabled and is unable to care for himself and his child(ren).

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28..

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§503. Categorically Eligible CCAP Households

A. Residents of Family Independence Temporary Assistance Program (FITAP) who are satisfactorily participating in the Strategies to Empower People (STEP) Program are categorically eligible for CCAP.

B. CCAP will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in §511.B, if the:

1. household includes a child in current need of child care who is under the age of 13, or age 13-17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of supplemental security income (SSI), or who is under court supervision.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§505. Certification Requirement for Households

A. To be certified as a CCAP household, households not receiving FITAP must meet the following eligibility criteria.

1. The household must reside in Louisiana.

2. The household must include a child in current need of child care services who is under the age of 13, or age 13-17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of supplemental security income (SSI), or who is under court supervision.

3. The child must customarily reside more than half the time with the person who is applying for CCAP. A child is still considered to be residing with the head of household during up to six weeks of scheduled absences from the home or early learning center, if there are definite plans for the child to return to the home or early learning center.

4. Training or Employment Mandatory Participant (TEMP)

a. Unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his or her child(ren), as verified by a doctor's statement or by worker determination. The training or employment mandatory participant (TEMP) must be:

i. employed for a minimum average of 30 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage; or

ii. attending a job training or educational program for a minimum average of 30 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

iii. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph A.4.b of this Section that averages at least 30 hours per week.

b. Exceptions:

i. a household in which all of the household members described in Paragraph A.4 of this Section meet the disability criteria, is not eligible for CCAP unless one of those members meets, the required minimum average of 30 activity hours per week;

ii. the employment and training activity requirements provided in Paragraph A.4 of this Section may be waived for a period of 180 days from the effective date of certification of CCAP eligibility for homeless parents or persons acting as parents who demonstrate that they are seeking employment or participating in a *transitional living program* as defined in §103. There is a six-month lifetime maximum for this exception.

5. Household income must not exceed 55 percent of the state median income for a household of the same size. *Income* is defined as:

a. the gross earnings of the head of household, that person's legal spouse, or non-legal spouse, and any minor unmarried parent (MUP) who is not legally emancipated and whose children are in need of CCAP, with the exception of income from:

i. Corporation for National and Community Service (CNCS);

ii. college work study; and

iii. disaster-related employment;

b. recurring unearned income of the following types for all household member:

i. Social Security Administration benefits;

ii. supplemental security income;

iii. Veterans' Administration benefits;

iv. retirement benefits;

v. disability benefits;

vi. child support or alimony;

vii. unemployment compensation benefits;

viii. adoption subsidy payments; and

ix. workers' compensation benefits.

6. The child in need of care must be either a United States citizen or a qualified alien.

7. The household must be current on payment of co-payments to any current or previous CCAP provider(s). Verification will be required to establish that co-payments are not owed by the household when:

a. a change in CCAP provider is reported;

b. an application for CCAP is received, if the most recent rejection of a CCAP application or closure was due to owing co-payments or not making necessary co-payments;

c. a CCAP provider reports that the household owes co-payments or is not making necessary co-payments.

B. The household requesting CCAP must provide the information and verification necessary for determining eligibility and monthly CCAP amount, and meet appropriate eligibility requirements established by the state. However, the verification of a child's age and immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the *homeless* definition described in §103, as long as all other eligibility factors described in §505.A.1-3 and 5-7 are met.

C. Households eligible for CCAP payments may be assigned a certification period of up to 12 months. However, households relying on the exception to eligibility requirements found in §501.B.4.e that have had the 30 hours per week employment and training requirement waived for a homeless family shall be certified for six months.

D. All children receiving CCAP must be age-appropriately immunized according to the schedule of immunizations promulgated by the Department of Health and Hospitals, Office of Public Health, or be in the process of receiving all age-appropriate immunizations.

1. No person is required to comply with this provision if that person or his or her parent submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his or her parent objects to the procedure on religious grounds.

2. Verification of a child's age and immunizations may be waived for 90 days from the effective date of certification for a household in which all of the members meet the *homeless* definition provided in §103, as long as all other eligibility factors described in §505.A.1-3 and 5-7 are met.

E. CCAP households must participate in the system designated by the department for capturing time and attendance. This process may include finger imaging for the heads of household and household designees.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§507. Changes That Must Be Reported by CCAP Households

A. A CCAP household shall report any change that affects CCAP eligibility or the calculation of the amount of monthly CCAP payments.

B. Changes in the following shall be reported within 10 days of knowledge of the change:

1. changes in household's gross monthly income if the household's gross monthly income changes by more than $100 in earned income or $50 in unearned income;

2. a change in CCAP provider;

3. an interruption of at least three weeks or the termination of any TEMP's employment or training; or

4. a child receiving CCAP leaves the household.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§509. Funding Availability and Prioritization

A. Availability. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or seats, that CCDF can pay for based on available funding.

B. Prioritization

1. The children of STEP participants shall be categorically eligible for CCAP. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with seats available for them as long as other eligibility factors are met and funding is available.

2. Children with special needs will be given priority status should it be necessary for a waiting list to be implemented. Children with special needs will be given priority status with seats available for them as long as other eligibility factors are met.

3. After all available seats are filled, a waiting list of households or eligible children will be established and maintained for each parish in chronological order by date of application. As seats become available, households will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children in households determined eligible will be added to the waiting list. At the department's discretion additional enrollment periods may be designated.

C. The department has the authority to implement an application freeze based on the lack of available child care funds to operate CCAP.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§511. Payments Made on Behalf of Ineligible Households

A. All CCAP payments made on behalf of ineligible households are subject to action to recover such payments with the exception of inadvertent household error claims and administrative error claims in the amount of $125 or less for non-participating households.

B. Action will be taken to recover:

1. all ineligible payments from currently participating households;

2. all payments resulting from an intentional program violation (IPV); and

3. all payments resulting from errors that are discovered in a quality control review.

C. When a participant is suspected of IPV, the department may:

1. refer the case for prosecution; or

2. refer the case for a disqualification hearing if the participant does not sign the waiver of right to an administrative hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems, or the case was previously referred for prosecution and was declined by the appropriate legal authority, or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by the department.

D. If an IPV is identified, the department may send a notice to the person to be disqualified and take action to disqualify for the appropriate situations:

1. 12 months for the first violation;

2. 24 months for the second violation; and

3. permanently for the third violation.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28..

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§513. Payments and Copayments Made to Providers

A. The sliding fee scale used for non-FITAP CCAP households will be revised based on the state median income and federal poverty levels, on an annual basis to the extent that funds are available. A non-FITAP CCAP household shall pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

B. Amount of Payments

1. Payments to CCAP providers on behalf of non-FITAP households, with the exception of homeless families who are exempt from the employment and training requirements as provided in §505.A.4.b.ii, will be a percentage of the lesser of:

a. the CCAP provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for CCAP as indicated below.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	$17.50	$18.50	$21.65	$22.65
School Child Care Center	$15.00	$16.00	$18.50	$19.50
Family Child Care Provider	$15.00	$16.00	$18.50	$19.50
In-Home Provider	$14.50	$15.50	$17.90	$18.90
Military Child Care Centers	$17.50	$18.50	$21.65	$22.65

2. Payments to CCAP providers on behalf of FITAP recipients and homeless families who are exempt from employment and training requirements pursuant to §505.A.4.b.ii will be the lesser of:

a. the CCAP provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for CCAP as indicated below.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	$17.50	$18.50	$21.65	$22.65
School Child Care Center	$15.00	$16.00	$18.50	$19.50
Family Child Care Provider	$15.00	$16.00	$18.50	$19.50
In-Home Provider	$14.50	$15.50	$17.90	$18.90
Military Child Care Centers	$17.50	$18.50	$21.65	$22.65

3. The number of days or hours authorized for payment is based on the lesser of the following:

a. the time the child is actually in care each week; or

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

c. the time the care is actually needed and available.

C. Payment is made to the CCAP provider after child care has been provided.

D. Payment may be made to more than one CCAP provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. Absences

1. Payment will not be made for absences of more than two days by a child in any calendar month or for an extended closure by a CCAP provider of more than two consecutive days in any calendar month.

2. A day of closure, on a normal operating day for the provider, is counted as an absent day for the child(ren) in the CCAP provider's care.

3. If a child authorized for full-time care attends child care less than four hours in one day, this will be counted as a half day absent and half the daily rate will be paid to the provider.

4. No absences will be authorized for part-time care.

5. Exception. In cases of federal, state, or locally declared emergency situations or other special circumstances, the department may waive this absence policy.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 7. Administration of School Readiness Tax Credits

§701. General School Readiness Tax Credit Provisions

A. For purposes of the tax credits provided in R.S. 47:6101-6109, a child is deemed to be five years of age or less if the child is five years of age or less on any day of the taxable year for which a credit is claimed.

B. The term "business" as used in this Chapter means any for-profit or not-for-profit entity not including any individual operating in their personal capacity.

C. The credits provided for in R.S. 47:6101-6109 are applicable against individual income tax and corporation income and franchise tax but not against income taxes imposed on estates and trusts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:

§703. Early Learning Center Expense Tax Credit

A. The Department of Revenue shall make available to qualifying early learning centers a credit certificate to be given to each taxpayer claiming the early learning center expense tax credit. The credit certificate will consist of an early learning center portion of the certificate and a taxpayer portion of the certificate.

B. The early learning center shall complete the early learning center portion of the credit certificate and shall submit the certificate to each taxpayer who had a child at the early learning center during the calendar year no later than January 31 of the succeeding year. The early learning center portion of the credit certificate will include, but not be limited to, the following information: the early learning center name, the early learning center star rating, the early learning center Louisiana tax identification number, the Louisiana early learning center license number from the

department, the name of the child attending the early learning center, and the issue date and effective year. The early learning center shall submit to the Department of Revenue a list of all taxpayers to whom a certificate was issued.

C. The taxpayer shall complete the taxpayer portion of the certificate which will include, but not be limited to, the following information: the name and Social Security number of the taxpayer claiming the credit; and the name, Social Security number and date of birth for the qualifying child for whom this credit is claimed on the tax return. The taxpayer must submit or maintain the certificate as required by the secretary of the Department of Revenue in forms and instructions.

D. The department shall provide information necessary for the secretary of the Department of Revenue to determine the early learning center's quality rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:

§705. Early Learning Center Tax Credit

A. The average monthly number of children as used in R.S. 47:6105 is to be determined on a calendar year basis and the early learning center shall claim the credit for the tax year that includes December 31. The early learning center tax credit will be calculated based on the average monthly number of children participating full-time in CCAP or the foster care program, from January to December of a calendar year, as follows:

1. full-time participation is considered when CCAP or foster care program pays for at least 12 days of service per child during the month; or

2. part-time participation is considered when CCAP or Foster Care Program pays for at least 40 hours of service per child during the month; or

3. part-time participation is considered when CCAP or foster care program pays for at least 5 days but no more than 11 days of service per child during the month; or

4. two part-time participants are considered one full-time participant for purposes of this calculation.

B. The department shall provide documentation to each qualifying early learning center of the average monthly number of children participating in CCAP or in the foster care program. If the early learning center has multiple sites, the department shall provide this information for each site. The certificate shall be delivered or mailed to all qualifying early learning centers by March 1 of the year following the year the credit is earned. The certificate shall include, but not be limited to, the following information: the early learning center name, the early learning center star rating, the early learning center license number and the issue date and effective year from the department.

C. Early learning centers that operate as a corporation or sole proprietorship shall submit or maintain the credit certificate as required by the secretary of the Department of Revenue in forms and instructions.

D. For early learning centers that operate as flow-through entities such as partnerships, LLCs electing partnership treatment, or S corporations passing credits through to shareholders, every partner, member, or shareholder claiming the credit must submit or maintain copies of the information issued by the department for each site. Every partner, member, or shareholder claiming the credit must submit or maintain a schedule showing how the total credit is allocated to each partner, member or shareholder.

E. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the early learning center's quality rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:

§707. Credit for Early Learning Center Directors and Staff

A. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

B. In order to claim this credit, the department or their representative, must provide early learning center directors and staff members with a certificate no later than January 31 that states which level of qualification the employee meets according to the criteria established by the department. The taxpayer must submit or maintain the certificate as required by the secretary of the Department of Revenue in forms and instructions.

C. Each early learning center director and staff member will also have to verify that he/she has worked at the same early learning center for at least six months in the calendar year, unless otherwise approved by the department.

D. Early learning center director and staff levels will have such meaning as provided by regulation issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:

§709. Business-Supported Early Learning Center Credits

A. Business Early Learning Center Expense Credit

1. In order for a business to claim this credit, the business must provide the Department of Revenue the following information: the name and Louisiana revenue tax identification number of the early learning center to or for whom the eligible expenses were paid or made, the amount and nature of qualifying expenses at each early learning center as defined in R.S. 17:407.33, and the early learning center's quality rating.

2. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the early learning center’s quality rating.

B. Payments and Donations to Child Care Resource and Referral Agencies

1. In order for a business to claim this portion of the business child care expense credit, the taxpayer must provide the Department of Revenue a receipt from the child care resource or referral agency for the amount of money the taxpayer paid and/or donated during the taxable year.

2. If the child care resource or referral agency is part of a larger charitable organization, only fees and/or donations made to the child care resource or referral agency division of that organization will qualify for this credit.

3. The department shall provide to the Department of Revenue a list of qualifying child care resource or referral agencies for each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:

Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)

§901. Authority

A. The Louisiana pathways early learning center career development system (LA pathways) is the state practitioner registry maintained by the department or its contractor. LA pathways offers early learning center staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training and educational attainment, experience and professional affiliation in the field of early childhood care and education.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§903. Participation in LA Pathways

A. Any individual working or planning to work in the early learning center industry is eligible to enroll in LA pathways by completing and submitting an application and the required documents.

1. LA pathways will register early learning center directors and staff according to requirements based on training and education, experience and professional activities, as approved by the department. Participation is voluntary.

2. The state superintendent of education, pursuant to authority delegated by BESE, in specific instances, may waive compliance with a requirement in this Chapter if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children are not imperiled. If it is determined that the individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

B. Requirements for the Administrator Track for LA Pathways

1. Assistant Director I

a. Training and education requirements:

i. annual training as required by Louisiana Early Learning Center Licensing Regulations.

b. Experience requirements:

i. none.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

2. Assistant Director II

a. Training and education requirements:

i. 60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations.

b. Experience requirements:

i. minimum six months.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

3. Assistant Director III

a. Training and education requirements:

i. 90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved administrative training categories.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

4. Director

a. Training and education requirements:

i. as required by early learning center licensing regulations.

b. Experience requirements:

i. as required by early learning center licensing regulations.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

5. Director I

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. 30 clock hours in approved administrative training categories; or

iii. related associate degree or 30 hours toward associate degree with four college courses in early childhood or child development.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. membership in an early childhood professional organization.

6. Director II

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. 45 clock hours in approved administrative training categories or national administrative credential; or

iii. associate degree in early childhood or child development; or

iv. related associate degree with four college courses in early childhood or child development; or

v. related bachelor degree with three college courses in early childhood or child development.

b. Experience requirements:

i. minimum 18 months.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event.

7. Director III—Administrator Certificate

a. To receive an administrator certificate you must have 75 clock hours of instruction in approved administrative training categories.

b. Two college courses in approved administration can be substituted for the administrator certificate.

c. Training and education requirements:

i. CDA credential or approved early childhood diploma; and administrator certificate; or

ii. bachelor degree in early childhood or child development of which three college courses focus on infants and toddlers; and administrator certificate; or

iii. related bachelor degree with six college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

d. Experience requirements;

i. minimum two years.

e. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event.

8. Director IV

a. Training and education requirements:

i. master's degree in early childhood, child development or early childhood administration of which three courses focus on infants and toddlers and administrator certificate; or

ii. related master's degree with eight college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

C. Requirements for the Classroom Track for LA Pathways

1. Early Learning Center Staff I

a. Training and education requirements:

i. as required by Louisiana early learning center licensing regulations.

b. Experience requirements:

i. none.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

2. Early Learning Center Staff II

a. Training and education requirements:

i. 12 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum six months.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

3. Early Learning Center Staff III

a. Training and education requirements:

i. 30 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

4. Early Learning Center Staff IV

a. Training and education requirements:

i. 60 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization

5. Early Learning Center Assistant Teacher I

a. Training and education requirements:

i. 90 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

6. Early Learning Center Assistant Teacher II

a. Training and education requirements:

i. 120 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

7. Early Learning Center Teacher I

a. Training and education requirements:

i. CDA credential or approved early childhood diploma.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

8. Early Learning Center Teacher II

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. nine CEU's or two early childhood college courses; or

iii. 30 hours toward associate degree with four college courses in early childhood or child development; or

iv. related associate degree.

b. Experience requirements:

i. minimum two years.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

9. Early Learning Center Teacher III

a. Training and education requirements:

i. associate degree in early childhood or child development; or

ii. related associate degree with 4 college courses in early childhood or child development; or

iii. bachelor degree in early childhood or child development; or

iv. related bachelor degree with three college courses in early childhood or child development.

b. Experience requirements:

i. minimum two years.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

10. Early Learning Center Teacher IV

a. Training and education requirements:

i. bachelor degree in early childhood or child development of which three college courses focus on infants and toddlers; or

ii. related bachelor degree with six early childhood or child development college courses of which three focus on infants and toddlers.

b. Experience requirements:

i. minimum two years.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

11. Early Learning Center Master Teacher

a. Training and education requirements:

i. graduate degree in early childhood or child development; or

ii. unrelated graduate degree with four early childhood or child development college courses.

b. Experience requirements:

i. minimum two years.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

D. Qualification for the School Readiness Tax Credit for Early Learning Center Directors and Staff

1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Early Learning Center Director Levels

a. Directors who are classified as director I by LA pathways are classified as meeting level I qualifications for purposes of this credit.

b. Directors who are classified as director II by LA pathways are classified as meeting level II qualifications for purposes of this credit.

c. Directors who are classified as director III by LA pathways are classified as meeting level III qualifications for purposes of this credit.

d. Directors who are classified as director IV by LA pathways are classified as meeting level IV qualifications for purposes of this credit.

3. Early Learning Center Staff Levels

a. Staff members who are classified as early learning center teacher I by LA pathways are classified as meeting level I requirements for purposes of this credit.

b. Staff members who are classified as early learning center teacher II by LA pathways are classified as meeting level II requirements for purposes of this credit.

c. Staff members who are classified as early learning center teacher III by LA pathways are classified as meeting level III requirements for purposes of this credit.

d. Staff members who are classified as early learning center teacher IV or early learning center master teacher by LA pathways are classified as meeting level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 11. Quality Start Child Care Rating System [Formerly Chapter 3]

§1101. Authority

A. The quality start child care rating system is established and administered by the department under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§1103. Definitions

Approved Courses—courses that are deemed approved by the department.

Assistant Directors—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

Assistant Teachers—any staff who cares for children in a classroom setting who can be assessed using the ITERS-R/ECERS-R and works at least 16 hours per week in the center.

Child Development Associate (CDA) Credential—a nationally recognized credential which can be used to meet staff qualification requirements.

Director—an administrator who meets the director qualifications as outlined in BESE Bulletin 137, §1709 and is on-site a minimum of 30 hours per week during operating hours when children are present.

Early Childhood Environment Rating Scale-Revised (ECERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5-5 years of age.

Environment Rating Scales (ERS)—the assessment tools developed at Frank Porter Graham Child Development Institute at the University of North Carolina that measure environmental indicators of quality. These indicators include the infant toddler environment rating scale-revised (ITERS-R) and the early childhood environment rating scale-revised (ECERS-R), as well as the school age care environment rating scale (SACERS) for school age programs, and the family child care environment rating scale-revised (FCCERS-R) for family child care homes. Only the ITERS-R/ECERS-R apply for purposes of the quality start child care rating system at this time.

Group—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

Infant Toddler Environment Rating Scale-Revised (ITERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

Lead Teacher—a teacher who has primary responsibility for a designated classroom that can be assessed using the ITERS-R/ECERS-R, including planning and supervision, and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

Quality Start Child Care Rating System Points—points given in the program, staff qualifications, administration practices, and family and community involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating three, four, and five.

Service Period—the months within the calendar quarter for which a child received care.

Social Emotional Subscales of the Environment Rating Scales—a subscale of the ECERS-R and ITERS-R generated by the scores earned on the language-reasoning, interaction and program structure subscales of the ECERS-R and the listening and talking, interaction and program structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for program points 1-4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§1105. Quality Start Child Care Rating System Requirements

A. The quality start child care rating system is designed to assess the level of quality of early care and education for programs serving birth through age five, communicate the level of quality, and support improvements of type III early learning centers.

1. The quality start child care rating system consists of five star ratings that can be earned by a licensed type III early learning center, uses licensing as the foundation, and has four star ratings above Louisiana's type III early learning center licensing standards.

2. The system components (administration practices, family and community involvement, program, and staff qualifications) have indicators that must be achieved to earn the star rating.

3. The state superintendent of education (state superintendent), in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

B. One Star. To participate at the one-star level, a type III early learning center shall have a valid type III early learning center license and comply with all laws, regulations and minimum standards applicable to type III early learning centers as set forth in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

C. Two Star. To earn a two-star award, a type III early learning center must meet all the standards for a one star, have been in operation for six months, and meet the following:

1. administration practices:

a. written personnel policies including:

i. operational hours;

ii. dress code;

iii. use of telephone; and

iv. schedule;

b. job descriptions that include a list of qualifications on file and provided to all staff;

c. provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:

i. employee health insurance or comparable health benefits;

ii. paid annual leave;

iii. paid sick leave;

iv. paid holidays;

v. child care benefit/discount;

vi bonus based on merit/achievement or education;

vii. retirement compensation;

viii. annual increments based on merit;

ix. tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;

x. differential shift pay;

xi. flextime;

xii. pay professional association membership fee;

2. family and community involvement:

a. parent-provided pre-enrollment visit and center tour;

b. give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, SNAP assistance and information on a child's medical home;

3. program:

a. make four of the following activity areas available daily:

i. art and creative play;

ii. children's books;

iii. blocks and block building;

iv. manipulatives; and

v. family living and dramatic play;

b. complete a self-assessment of the center's program and develop a center improvement plan;

4. staff qualifications:

a. directors and teachers must join and maintain a current record with the Louisiana pathways child care career development system. Directors must complete three hours of introduction to environment rating scale (ERS) training;

b. director (on site):

i. three semester hour credits in care of young children or child development; and

ii. three semester hour credits in administration; and

iii. one year of experience in teaching young children in an early childhood program;

c. assistant director:

i. three semester hour credits in the care of young children or child development;

d. teacher—75 percent of lead teachers must meet one of the following:

i. complete three semester hour credits course in the care of young children or child development from a list of approved courses or enroll in the course and complete the course within one year of employment.

D. Point Standards for Type III Early Learning Centers seeking Three Star Rating, Four Star Rating, and Five Star Ratings

1. To achieve a higher rating, a type III early learning center must meet all requirements of the two star rating and earn points in program and staff qualifications by meeting the requirements listed below. At least one point must be earned in both program and staff qualifications. The quality point referenced in Subparagraph D.1.c of this Section may also be earned. The total number of points will determine the star rating awarded to the center:

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

a. program:

i. criteria for one point:

(a). an average of 3.75 on the designated social-emotional subscale of the environment rating scale (ERS), with no one classroom score lower than 3.0 on the subscale;

ii. criteria for two points:

(a). an average of 4.0 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.0 on the subscale;

iii. criteria for three points:

(a). an average of 4.25 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.25 on the subscale;

(b). staff: child ratio and group size:

(i). 0-12 months 1:4, 8;

(ii). 13-24 months 1:6, 12;

(iii). 25-36 months 1:8, 16;

(iv). 3 years 1:10, 20;

(v). 4 years 1:12, 24;

(vi). 5 years 1:15, 30;

(c). written transition procedures for children moving within a program or to other programs or beginning school;

iv. criteria for four points:

(a). an average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS;

(b). complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources;

(c). staff: child ratio and group size:

(i). 0-12 months 1:4, 8;

(ii). 13-24 months 1:6, 12;

(iii). 25-36 months 1:8, 16;

(iv). 3 years 1:10, 20;

(v). 4 years 1:12, 24;

(vi). 5 years 1:15, 30;

(d). written transition procedures for children moving within a program or to other programs or beginning school;

v. criteria for five points:

(a). an average of 5.0 on the overall ERS, with no one classroom score lower than 4.0;

(b). complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources;

(c). provide a plan for continuity of care for all children 0-36 months of age;

(d). implementation of Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(e). staff: child ratio and group size:

(i). 0-24 months 1:4, 8;

(ii). 2 years 1:6, 12;

(iii). 3 years 1:8, 16;

(iv). 4 years 1:10, 20;

(v). 5 years 1:10, 20;

b. staff qualifications:

i. criteria for one point:

(a). directors and all lead teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). director (on site):

(i). six semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework, and

(iii). one year experience teaching young children in an early childhood program;

(c). assistant director:

(i). three semester hour credits in the care of young children or child development;

(d). lead teacher:

(i). all of lead teachers must complete three semester hour credits in the care of young children or child development from a list of approved courses or enroll in the course and complete the course within one year of employment;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development and complete the course within one year of employment;

ii. criteria for two points:

(a). directors and all lead teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). director:

(i). nine semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year of teaching experience and one year teaching or administrative experience in an early childhood program;

(c). assistant director:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). seventy-five percent of lead teachers must have completed six semester hour credits in the care of young children or child development from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). one year full-time experience in an early childhood setting;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development and complete the course within one year of employment;

iii. criteria for three points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). director:

(i). twelve semester hour credits in the care of young children or child development; and

(ii). six semester hour credits of administrative coursework; and

(iii). three years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience and one year of either teaching or administrative experience;

(c). assistant director:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). seventy-five percent of lead teachers must have completed nine semester hour credits in the care of young children or child development from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). one year full-time experience in an early childhood setting;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed three semester hour credits in the care of young children or child development;

iv. criteria for four points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in *BESE Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). directors:

(i). fifteen semester hour credits in the care of young children or child development; and

(ii). six semester hour credits of administrative coursework; and

(iii). four years experience in an early childhood setting as follows: at least one year of teaching experience and at least one year of administrative experience and two years of either teaching or administrative experience;

(c). assistant directors:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teachers:

(i). seventy-five percent of lead teachers must have completed 12 semester hour credits in the care of young children or child development from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). two years full-time experience in an early childhood setting;

(e). assistant teachers:

(i). all assistant teachers must have completed three semester hour credits in the care of young children or child development;

v. criteria for five points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

(b). director:

(i). associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, and the care of exceptional children or equivalent such as director III LA pathways; and

(ii). six semester hour credits of administrative coursework and five years experience in an early childhood setting as follows: at least one year of teaching experience and at least one year of administrative experience, and three years of either teaching or administrative experience;

(c). assistant director:

(i). six semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administration; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). all lead teachers must have six semester hour credits in the care of young children or child development from a list of approved courses; and

(ii). seventy-five percent of lead teachers must have completed 15 semester hour credits in the care of young children or child development from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(iii). two years full-time experience in an early childhood setting for all teachers;

(e). assistant teachers:

(i). all assistant teachers must have completed six semester hour credits in the care of young children or child development or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment;

c. one additional quality point can be earned by meeting additional requirements in both the administration practices and the family and community involvement areas:

i. administration practices. Meet three requirements below:

(a). provide four of the benefits from the list of options below for all full-time staff;

(b). include grievance procedure and a professional conduct code for staff in written personnel policies;

(c). pay scale based on education, experience, responsibilities and merit;

(d). provide training to staff on cultural sensitivity;

(e). written parent and staff confidentiality policy and provide training to staff;

ii. family and community involvement. Meet four requirements below:

(a). director or assistant director participates annually in at least two director's meetings provided by the resource and referral agency;

(b). provide a complaint process for parents;

(c). offer opportunity for a formal parent/teacher conference meeting annually;

(d). provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, snap assistance and information on a child's medical home;

(e). parent advisory council meets annually to review policies, procedures and parent handbook;

(f). one group meeting per year offered to all families;

(g). one parent education workshop offered per year by center or other agency.

E. Substitutions. The following reference program criteria and staff qualifications in this Section.

1. Substitutions for Credits in the Care of Young Children

a. The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development:

i. a current CDA or have approved high school child development courses;

ii. have five years full-time experience in an early childhood program; or

iii. have completed a child care assistant teacher 1 LA pathways classroom certificate.

b. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development:

i. current CDA; or

ii. have completed a child care assistant teacher 2 LA pathways classroom certificate.

c. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

2. The following may be substituted to meet the requirement for three semester hour credits in administration:

a. LA pathways administrator certificate;

b. national administrator credential (NAC); or

c. three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE: For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next rating review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

3. For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales:

a. ITERS-R—listening and talking, interaction and program structure; and

b. ECERS-R—language-reasoning, interaction and program structure.

4. Staff benefits options:

a. employee health insurance or comparable health benefits;

b. paid annual leave; paid sick leave; paid holiday;

c. child care benefit/discount;

d. bonus based on merit/achievement or education;

e. retirement compensation;

f. annual increments based on merit;

g. tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; and

h. differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§1107. Participation

A. A type III early learning center will complete the application to participate in the quality start child care rating system at one star. If awarded, this will establish the center's initial year in the system.

B. Centers with two to five stars may submit an application for a star(s) six months after the date of award of the current rating or denial of an award. A verification visit will be conducted by the department prior to the award of two or more stars.

C. Quality ratings earned prior to January 1, 2014 will be valid for two years from the date of the star rating award as long as the center continues to qualify for the star rating. Quality ratings earned by type III early learning centers on or after January 1, 2014, shall expire June 30, 2017. Quality ratings earned by type I and type II early learning centers on or after January 1, 2014 shall expire on December 31, 2015. A rating review, which may be a visit or verification of documentation, may be conducted on a percentage of participating centers to ensure continued compliance.

D. Centers that have achieved a star rating may have their rating reviewed and modified, if at any time it becomes known to the department or the department receives information from the center that the type III early learning center no longer meets standards for the center's current star rating award.

E. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked or not renewed.

F. Centers that have achieved a star rating may have their rating revoked, or centers applying may be denied, if it is determined by the department that false or misleading statements or documents have been submitted or misrepresented or relevant facts have been concealed or withheld in order to qualify or maintain a star(s) in the quality start child care rating system or to obtain the school readiness tax credit (SRTC).

G. The provider must reimburse the department for all ineligible benefits received.

H. Participation in the quality start child care rating system is voluntary. There are no administrative appeal rights for providers whose participation is denied or terminated.

I. Centers that have their star award revoked by quality start may be prohibited from participating in quality start for 12 months from the date of revocation of star award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§1109. Quality Start Child Care Rating System Tiered Bonus Payments

A. Bonus payments will be issued after the end of each calendar quarter to type III early learning centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating until June 30, 2016, and may be extended at the department's discretion through June 30, 2017. The payment is equal to a percentage, as defined below, of all child care subsidy payments received by the center from the department for services provided during the service period(s) in that quarter and the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§1111. Termination

A. The quality start child care rating system shall terminate on June 30, 2017.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary, LR 41:

Charles E. "Chas" Roemer, IV
President

1507#004

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.Chapters 1-7)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. Act 3 (Early Childhood Education Act) of the 2012 Regular Legislative Session required the creation of an early childhood care and education network; established the purposes of such network and the related duties and responsibilities of certain state agencies; provided for the development of early childhood education programs and standards; and provided for an accountability system for early childhood education programs. The purpose of Bulletin 140 is to establish the duties and responsibilities of the early childhood care and education network, local community networks and community network lead agencies, define kindergarten readiness, and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

This Declaration of Emergency, effective July 1, 2015, will remain in effect for a period of 120 days. The unified quality and improvement system will launch with a learning year in 2015-2016 whereby every early childhood site and community network will receive a practice performance profile. All publicly-funded early childhood programs will be required to participate, but there will be no funding or licensing consequences attached to the practice performance rating.

Title 28
EDUCATION
Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network
Chapter 1. General Provisions
§101. Purpose

A. The purpose of this Bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks and community network lead agencies, define kindergarten readiness, and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§103. Definitions

8(g) Program—the Student Enhancement Block Grant Program administered by the Board of Elementary and Secondary Education that provides funding through the Louisiana education quality start fund that may be used to serve at-risk PreK children.

Assessment—see *early childhood care and education assessment*.

At-Risk—children are considered at-risk if their family income is at or below 185 percent of the federal poverty level according to the United States Department of Agriculture, or if they are in foster care, or they are English language learners, or they are experiencing homelessness, or they meet the definition of an " infant or toddler with a disability" found in 34 CFR §303.21 for children ages birth to three years or a "child with a disability" found in 34 CFR §300.8 for children ages 3 and older.

BESE—Board of Elementary and Secondary Education.

Caregiver—any person legally obligated to provide or secure care for a child, including a parent, legal custodian, foster home parent, or other person providing a residence for the child.

CCAP—Child Care Assistance Program.

Child Care Assistance Program (CCAP)—federal program administered by the Louisiana Department of Education that makes payments to child care providers for child care services provided to eligible families.

CLASS®—classroom assessment scoring system.

Classroom—see *early childhood care and education classroom.*

Classroom Assessment Scoring System (CLASS®)—a classroom observation-based system used to assess and rate classroom quality across multiple areas using a scale of one to seven.

Community Network Coverage Area—the geographic area of a community network, which typically is the same geographical area as the local school district or school districts, but may be other coverage areas, as determined by the community network and approved by the department.

Coverage Area—see *community network coverage area*.

Department—Louisiana Department of Education.

Early Childhood Care and Education Assessment (Assessment)—observation-based process used to determine whether children ages birth to five years are growing and developing across all the areas of development and learning provided in Bulletin 136, the *Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years.*

Early Childhood Care and Education Classroom (*Classroom*)—an infant, toddler or PreK classroom.

Early Childhood Care and Education Performance Profile (Performance Profile)—information regarding performance in preparing children for kindergarten that is reported each school year for each publicly-funded site and community network composed of the site or community network's performance rating and informational metrics.

Early Childhood Care and Education Performance Rating (Performance Rating)—measure of performance in preparing children for kindergarten that is reported each school year for each publicly-funded site and community network.

Early Childhood Care and Education Program (Program)—an early learning center-based or school-based organization that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten.

Early Childhood Care and Education Site (Site)—a distinct early learning center-based or school-based location that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten.

Early Learning Center—any child day care center, Early Head Start, Head Start, or stand-alone prekindergarten program that is not attached to a school.

EarlySteps Program—program administered by the Louisiana Department of Health and Hospitals that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families according to the requirements of the Individuals with Disabilities Education Act (IDEA), Part C.

Equitable Access—the point at which every family who wishes to enroll their at-risk child in a publicly-funded program is able to do so.

Fall Observation Period—observation period between August 1 and December 15 of each year.

Fiscal Year—July 1-June 30.

Full Day—at least 6 continuous hours per day or more than 20 hours per week of care and instruction aligned with a typical school day.

Head Start and *Early Head Start Programs*—federally-funded early childhood care and education programs that promote and teach school readiness to children ages birth to five from low-income families and provide services in the areas of education, social services for families, nutrition, family engagement, health and mental health, as well as providing the physical plant and instructional staff members for such purposes (42 U.S.C. 9801 et seq., 45 CFR part 1300).

Individuals with Disabilities Education Act (IDEA), Part B—federal program administered by the Louisiana Department of Education that provides education funding for children with disabilities, ages 3 through 21.

Individuals with Disabilities Education Act (IDEA), Part C—federal program administered by the Louisiana Department of Health and Hospitals that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families to meet the

developmental needs as identified by the individualized family services plan. See *EarlySteps Program*.

Infant—a child who has not yet reached 15 months of age.

Infant Classroom—a classroom in which the majority of children are infants.

Informational Metric—measure of early childhood care and education best practices at the site or community network level.

LA 4 Program—the Cecil J. Picard LA 4 Early Childhood Program that provides funding for PreK classrooms for four-year-old children who are eligible to enter kindergarten the following school year.

Lead Teacher—the early childhood care and education classroom teacher that is primarily responsible for the classroom and is required to meet the certification requirements in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

Learning Year—the 2015-2016 school year shall be a learning year for the early childhood care and education network.

Nonpublic School Early Childhood Development Program (NSECD)—Louisiana program administered by the Department of Education that provides funding for four-year-old preschool in BESE-approved nonpublic schools and type III early learning centers.

Notice—written notice is considered given:

1. when it is sent by email or fax to the last email address or fax number furnished to the department;
2. when it is hand-delivered; or
3. on the fifth calendar day after it was mailed to the last mailing address furnished to the department.

NSECD—Nonpublic School Early Childhood Development Program.

Performance Profile—see *early childhood care and education performance profile*.

Performance Rating—see *early childhood care and education performance rating.*

PreK—prekindergarten.

PreK Child—a child age 36 months to 5 years who has not yet entered kindergarten.

PreK Classroom—a classroom in which the majority of children are PreK children.

Program—see *early childhood care and education program.*

Publicly-Funded Children—children ages birth to five years who have not yet entered kindergarten that are being served full day with funds from either CCAP, Early Head Start, Head Start, LA 4 Program, NSECD, 8(g) Block Grant, title 1 of ESEA, or IDEA Part B in a full day setting.

Publicly-Funded Classroom—see *publicly-funded early childhood care and education classroom*.

Publicly-Funded Early Childhood Care and Education Classroom—any infant, toddler or PreK classroom that includes a publicly-funded child or children.

Publicly-Funded Early Childhood Care and Education Program—an early learning center-based or school-based organization that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten with funds from either CCAP, Early Head Start, Head Start, NSCED, LA 4 Program, 8(g) Block Grant, title 1 of ESEA or IDEA Part B, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

Publicly-Funded Early Childhood Care and Education Site—a distinct early learning center-based or school-based location that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten in a full-day setting with funds from either CCAP, Early Head Start, Head Start, NSCED, LA 4 Program, 8(g) Block Grant, title 1 of ESEA or IDEA Part B, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

Publicly-Funded Program—see *publicly-funded early childhood care and education program*.

Publicly-Funded Site—see *publicly-funded early childhood care and education site*.

Site—see *early childhood care and education site*.

Spring Observation Period—observation period between January 1 and May 15 of each school year.

State Superintendent—state superintendent of education

Third-Party Independent Contractor (Third-Party Contractor)—contractor that is separate from and independent of the lead agency and the community network with whom the department enters into a contract to perform CLASS® observations on behalf of the department.

Title I—title I of the Elementary and Secondary Education Act (ESEA) that provides funding that may be used for preschool programs for disadvantaged children.

Toddler—a child age 15 months to 36 months.

Toddler Classroom—a classroom in which the majority of children are toddlers.

Type III Early Learning Center—an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 3. Early Childhood Care and Education Network

§301. Early Childhood Care and Education Network

A. The early childhood care and education network is established as the comprehensive and integrated network through which the Board of Elementary and Secondary Education (BESE) manages and oversees publicly-funded early childhood care and education programs in Louisiana to promote and improve kindergarten readiness.

B. The early childhood care and education network is comprised of the local community networks throughout the state.

C. The Department of Education (department), pursuant to authority delegated by BESE, manages and oversees the administration of the early childhood care and education network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§303. BESE's Duties and Responsibilities

A. To facilitate the creation of the early childhood care and education network, BESE shall:

1. establish a definition of kindergarten readiness aligned with Louisiana content standards for elementary and secondary schools (see §305 of this Chapter);

2. establish performance targets for children under the age of three and academic standards for kindergarten readiness for three- and four-year old children to be used in publicly-funded early childhood education programs (see *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*);

3. create a uniform assessment and accountability system for publicly-funded early childhood care and education programs that includes an early childhood care and education performance rating (performance rating) indicative of performance (see Chapter 5 of this Bulletin);

4. align the standards for the licensing of child care facilities, including the requirements for participation in the Louisiana quality start child care rating system, with the standards established for early childhood education programs (see *Bulletin 137—Louisiana Early Learning Center Licensing Regulations* and *Bulletin 139—Louisiana Child Care and Development Fund Programs*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§305. Kindergarten Readiness Definition

A. Children who are ready for kindergarten are expected to demonstrate:

1. cognitive abilities, which include knowledge and skills in:

a. early literacy, such as phonological awareness, print concepts, alphabetic understanding, vocabulary, listening comprehension, and emergent writing;

b. basic numeracy concepts, such as rote counting and number awareness, sorting, classifying, comparing, patterning, and spatial relationships;

2. basic science concepts, such as making observations, exploring the world using their senses, and using appropriate scientific vocabulary related to topics;

3. basic social studies concepts, such as self-awareness and their relationship to family and community, and an awareness of money and time;

4. response to and participation in music, movement, visual and dramatic arts experiences and activities;

5. abilities, either assisted or unassisted, that show an awareness of health, hygiene, and environmental hazards, in addition to gross and fine motor skills;

6. social and emotional competencies, including self-regulation, self-identity, self-reliance, respect for others, and interpersonal skills; and

7. approaches to learning, such as reasoning and problem-solving, engagement, persistence, and eagerness to learn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§307. Publicly-Funded Early Childhood Care and Education Programs and Community Networks

A. Publicly-Funded Early Childhood Care and Education Program (Publicly-Funded Program)

1. Each publicly-funded program shall participate in the:

a. membership in the community network for its coverage area;

b. early childhood care and education accountability system (accountability system), as provided in Chapter 5; and

c. coordinated enrollment process, as provided in Chapter 7.

2. Any publicly-funded program that does not comply with Paragraph A.2 of this Section may be subject to the loss of its public funding.

B. Community Network

1. Each community network shall:

a. participate in the early childhood care and education accountability system (accountability system);

b. develop and implement a coordinated observation plan for the community network;

c. develop and implement a coordinated enrollment process for the community network;

d. have a lead agency;

e. support the department in disseminating and collecting an annual survey from lead teachers and families of every publicly-funded child; and

f. address other needs as identified by the community network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§309. Community Network Lead Agency

A. A community network lead agency is either a state agency, a local public school system, a non-profit or for-profit corporation having an educational or social services mission, including but not limited to a nonprofit corporation of a philanthropic or policy nature, a Louisiana public postsecondary institution, or a nonprofit corporation established by the governing authority of a parish or municipality, that is approved by BESE and that:

1. serves as the fiscal agent of the community network;

2. coordinates the duties and responsibilities of the community network; and

3. acts as the liaison between the community network and the department.

B. Duties and Responsibilities

1. The lead agency shall be responsible for coordinating the duties and responsibilities of the community network pertaining to:

a. coordinated classroom assessment scoring system (CLASS®) observations, as provided in §503, which includes but is not limited to:

i. submitting the community network's annual plan for coordinated CLASS® observations to the department;

ii. submitting all CLASS® observation results to the department; and

iii. sharing each publicly-funded program's CLASS® observation results with that publicly-funded program and sharing the aggregate CLASS® observation results for the community network with all publicly-funded programs in the community network, at least monthly;

b. coordinated enrollment, as provided in Chapter 7, which includes but is not limited to:

i. ensuring a coordinated enrollment process is operated by the community network each year as provided in §703;

ii. submitting to the department the community network's coordinated enrollment plan, which shall include signatures from each publicly-funded program in the community network indicating approval of the plan and shall describe how the community network will ensure coordinated enrollment for families within the community network who want to enroll their infant, toddler, or PreK children in a publicly-funded program in the community network;

iii. submitting counts to the department twice a year reflecting the total enrollment of at-risk children in all programs in the community network as of October 1 and as of February 1, according to the age cohorts provided in §701;

iv. submitting an annual request for funding to the department for publicly-funded programs in the community network that is based on the results of the coordinated enrollment process used in the community network and is subject to the requirements provided in §709; and

v. working with all publicly-funded programs in the community network to maximize all available resources to increase the quality of and access to the publicly-funded programs for at-risk children;

c. accountability system reporting, as provided in §515;

d. data verification, as provided in §517;

e. requesting waivers, as provided in §519;

f. submitting appeals, as provided in §521; and

g. demonstrating progress toward implementation of coordinated enrollment as provided in §707.

2. The lead agency shall not charge any publicly-funded program for any part of the coordinated observation process and shall not require publicly-funded programs to provide staff to conduct CLASS® observations.

C. Selection and Approval

1. Lead agencies shall be approved by BESE.

2. The department shall identify potential lead agencies through a competitive process and submit them to BESE for approval.

3. Applicants for lead agency shall demonstrate support from all publicly-funded programs within the community network by obtaining signatures from each and submitting them to the department in the competitive process.

4. By June 30 of each year, the department shall recommend the identified lead agencies to BESE for approval.

5. If BESE has not approved a lead agency for a community network by July 1, the department shall serve as lead agency for the community network.

6. Lead agencies approved by BESE shall serve for the fiscal year beginning July 1 and ending June 30.

D. Contracts

1. Lead agencies approved by BESE shall enter into a lead agency agreement with the department.

2. The lead agency may enter into a contract or agreement with an individual or entity for performance of specific tasks within the duties and responsibilities of the lead agency, but the lead agency remains responsible for satisfactory completion of the tasks.

E. Funding

1. Subject to available funding, lead agencies shall be funded based on the number of early childhood care and education classrooms (classrooms) in the network.

a. Lead agencies shall be notified of their total funding for the following fiscal year by June 30.

b. Lead agencies shall use funding solely to fulfill the duties and responsibilities of the community network as provided in this Bulletin.

c. If the department is required to serve as a lead agency, the department shall be funded in the same manner as any other lead agency.

F. Audit

1. BESE may request a financial audit of the lead agency's use of funds allocated to it.

2. Audits shall be at the department's expense.

3. If a lead agency improperly uses its allocated funds, the lead agency may be required to repay the improperly used amount.

G. Termination of Lead Agency Approval

1. If a lead agency fails to satisfactorily and timely comply with the duties and responsibilities contained in this Bulletin or with any additional duties and responsibilities established in writing during the competitive process, the department shall notify the lead agency, and all publicly-funded programs within the community network in writing and specify any corrective actions that may be required.

2. Within 30 calendar days of receiving such notice, the lead agency shall submit in writing to the department certification that the corrective actions have been taken or are in the process of being taken and submit a timely implementation schedule for department approval.

3. If the lead agency does not respond in writing in a timely or satisfactory manner or adhere to the implementation schedule approved by the department, either or both of the following actions may occur.

a. The department may withhold funds from the lead agency for any work not yet performed.

b. The department may make a recommendation to BESE that approval of the lead agency be terminated.

4. If BESE terminates a lead agency's approval and does not approve a new lead agency, the department shall serve as lead agency for a community network.

5. The department shall notify all publicly-funded programs in a community network of any change in that community network's lead agency.

6. If a lead agency's approval is terminated:

a. the entity shall be ineligible to serve as lead agency in the community network from which its approval was terminated for a minimum period of 24 months;

b. if the entity serves as lead agency for more than one community network, the entity may continue to serve as lead agency for any community network for which its approval has not been terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§311. Complaints

A. Any program or individual may submit a written complaint to the department regarding the action or inaction of the lead agency in its community network.

B. A complaint shall be submitted in writing within 30 calendar days of the action or inaction of the lead agency upon with the complaint is based.

C. All complaints shall clearly state the action or inaction upon which the complaint is based and provide specific facts and documentation supporting the complaint.

D. The department shall act upon and respond in writing to all signed complainants within 30 calendar days of receiving the complaint.

E. Anonymous complaints may be acted upon at the discretion of the department.

F. Lead agencies shall not retaliate in any manner against a program or individual that submits a complaint to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in R.S. 17:407.36(C).

B. Type III early learning centers meeting the performance and academic standards shall receive academic approval from the department. Academic approval is verification by the department that the center is meeting the required performance and academic standards.

C. Initial Academic Approval for 2015-2016 Fiscal Year

1. Existing Type III Early Learning Centers

a. Academic approval shall be granted for the 2015-2016 fiscal year to any existing type III early learning center that has submitted a signed copy of program partner profile and assurances (assurances) to the lead agency of the community network in its area, and is thereby agreeing to:

i. membership in the community network;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

b. The community network shall submit copies of assurances signed by type III early learning centers to the department within seven calendar days of receiving them or prior to July 1, 2015, whichever is earlier.

c. The department shall send written notice of academic approval to each type III early learning center that has submitted signed assurances to its community network in compliance with Subparagraph C.1.a by July 1, 2015.

2. Applicants for new Type III Early Learning Center Licenses

a. In order to obtain the initial academic approval required to be licensed as a type III early learning center, an applicant for a type III early learning center license must become a member of the community network in its coverage area and submit a signed copy of the program partner profile and assurances (assurances) to the lead agency of the community network thereby agreeing to:

i. membership in the community network;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

b. The department shall send written notice of academic approval to each type III early learning center that has submitted signed assurances to its community network in compliance with Subparagraph C.2.a within 30 days of receipt of the signed assurances.

D. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

E. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

F. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

G. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph H.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph H.2.c and send notice of termination of the center's academic approval.

H. Termination of Academic Approval

1. The department may terminate academic approval for:

a. violations of any provisions of this Bulletin related to the performance and academic standards of the early childhood care and education network;

b. failure to timely comply with a corrective action plan provided by the department; or

c. any act of fraud, such as the submission of false or altered documents or information.

2. Notice

a. If a type III early learning center is in violation of any provision in Subsection A, the department shall notify the center in writing and may specify any corrective actions that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions have been taken or are in the process of being taken in compliance with the

schedule provided and certification that the center will remain in compliance with all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner or adhere to the implementation schedule for required corrective actions, the department may terminate the center's academic approval by sending written notice of termination to the center.

d. Termination of the center's academic approval shall be effective when notice of termination is given.

I. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the termination of a type III early learning center's academic approval.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the termination of its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of termination of its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within ten working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination of its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 5. Early Childhood Care and Education Accountability System

§501. Early Childhood Care and Education Accountability System (Accountability System)

A. The early childhood care and education accountability system (accountability system) is the uniform accountability system created pursuant to R.S. 17:407.23(B)(3) and used to evaluate the performance of publicly-funded early childhood care and education sites and community networks in preparing children for kindergarten and to assign a performance profile to each site and community network.

B. Participants

1. Publicly-Funded Early Childhood Care and Education Sites (Publicly-Funded Sites)

a. All publicly-funded sites with at least one classroom on October 1 shall participate and shall be included in the accountability system.

b. All publicly-funded sites with at least one classroom on October 1 and one classroom on February 1 shall participate and shall receive a performance profile for the school year.

c. All classrooms in existence on either October 1 or February 1 in a publicly-funded site shall be included in the accountability system for that school year.

d. Publicly-funded sites that open after October 1 of a school year shall not participate in the accountability system, as provided in this Chapter, until the start of the following school year.

2. Community Networks

a. All community networks shall participate and shall be included in the accountability system and shall receive a performance profile for the school year.

b. If any publicly-funded site discontinues participation in a community network after October 1 by changing funding source, license type, or closing, its performance shall remain part of the community network performance profile for the school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§503. Coordinated Observation Plan and Observation Requirements

A. Coordinated observation is the local process by which each community network ensures that every classroom in a publicly-funded site in the community network receives two CLASS® observations each school year.

B. CLASS® Observation Requirements

1. A CLASS® observation is an observation of a classroom using the appropriate toddler or PreK CLASS® using all domains, typically occurring during the morning, in which a reliable observer conducts four 20-minute cycles of observation and note-taking followed by at least 10 minutes of scoring after each observation cycle.

2. Domains and Dimensions

a. CLASS® observations for toddler classrooms shall include both toddler CLASS® domains, which are emotional and behavioral support and engaged support for learning, and all dimensions contained within.

b. CLASS® observations for PreK classrooms shall include all three PreK CLASS® domains, which are emotional support, classroom organization, and instructional support, and all dimensions contained within.

3. Required Observations

a. All toddler and PreK classrooms in a publicly-funded site shall receive two CLASS® observations during the school year conducted by the community network.

b. One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

c. CLASS® observations conducted by third-party contractors hired by the department shall not count towards this requirement.

4. Use of Toddler or PreK CLASS®. Classrooms shall be observed with the same CLASS® throughout the school year based on the composition of the classroom when the observation plan required in §503.C is submitted according to the following.

a. A classroom that only has infant children or a classroom that has a mix of infant and toddler children in which a majority are infant children shall not be observed.

b. A classroom that has all toddler children or a classroom that has a mix of infant and toddler children in which the majority are toddler children shall be observed with the toddler CLASS®.

c. A classroom that has all PreK children or a classroom that has a mix of toddler and PreK children in which the majority are PreK children shall be observed with the PreK CLASS®.

C. Coordinated Observation Plan

1. Each community network shall submit for department approval no later than September 30 a written annual plan for coordinated observation using CLASS® that at a minimum includes:

a. the number of CLASS® observers who will conduct observations;

b. the total number and the location of toddler and PreK classrooms that must be observed;

c. an observation schedule that includes two observations for each toddler and PreK classroom identified in Subparagraph B.3.b of this Section, with one observation scheduled during the fall observation period and one during the spring observation period; and

d. specific requirements that ensure the following:

i. all observers are reliable, which is defined as all observers having a certification achieved by completing and passing all trainings and assessments required by Teachstone to conduct a CLASS® observation with validity and fidelity;

ii. all observers maintain inter-rater reliability and fidelity. Inter-rater reliability occurs when two or more observers produce consistent observation results for the same classroom at the same time;

iii the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed; and

iv. no observer conducts an observation in a classroom in which the observer has a conflict of interest. A conflict of interest may exist in, but is not limited to, situations in which the observer: supervises, provides training or technical assistance to, or is an immediate family member of a teacher in the classroom being observed or has a direct financial interest in the site where classrooms are being observed.

D. Waiver

1. The state superintendent of education (state superintendent) shall have the authority to grant waivers to lead agencies for specific requirements of the coordinated observation plan and/or observation requirements included in this Chapter.

2. Lead agencies seeking a waiver shall submit a written request the department prior to or at the time of the submission of the coordinated enrollment plan. The request shall cite the specific requirement for which a waiver is being requested and shall clearly state the reasons why the waiver is being requested and why it should be granted. Waiver requests shall include any supporting documentation that substantiates the need for the waiver.

3. The department shall respond in writing to waiver requests within 30 calendar days after receiving the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§505. Performance Profiles

A. The performance profiles for publicly-funded sites and for community networks shall include:

1. a performance rating as provided in §509 for publicly-funded sites and as provided in §511 community networks; and

2. informational metrics as provided in §513.

B. Each publicly-funded site and each community network shall receive a performance profile based on performance each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§507. Performance Profile Implementation Timeline

A. The 2015-2016 school year shall be a learning year for publicly-funded sites and community networks.

1. A learning year is a year in which there are no consequences on publicly-funded sites or community networks as a result of their performance profile.

2. Performance profiles for the 2015-2016 learning year shall clearly indicate that the performance profile is practice and is from a learning year.

B. Every publicly-funded site, except those that begin operating after October 1, and every community network shall participate in the accountability system for the 2015-2016 learning year and shall receive a practice performance profile as provided in §501.

1. Type III early learning centers that do not participate in the accountability system may have their academic approval terminated.

2. All other publicly-funded sites that do not participate in the accountability system may be subject to the loss of public funding.

C. The 2016-2017 school year shall be the first school year in which publicly-funded sites and community networks are accountable for the performance rating earned.

D. Prior to the start of the 2016-2017 school year, BESE shall review this Chapter and revise as necessary based on learnings from the 2015-2016 learning year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the domain level toddler and PreK observation results from the fall and spring observation periods for all toddler and PreK classrooms within the site.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

B. Any classroom in a publicly-funded site that does not have the observations required in §503 or does not have all results reported, shall have a score of one assigned to each missing CLASS® domain score. The score of one for

missing or not-reported observation results shall be included in the performance rating calculation for that site and the number of missing or not-reported observation results shall be reported on the performance profile.

1. Lead agencies may have their approval terminated as provided in §309.G for incomplete observations or observation results not reported.

2. Any site or program that has diligently sought observations from the lead agency, including written evidence of such efforts, and that has not been provided such observations, may request of BESE an appeal of its performance rating as described in §521. BESE shall consider diligent efforts and evidence thereof in determining the appeal.

3. Prior to the issuance of the publicly-funded site or community network profiles, the department shall provide to the advisory council on early childhood care and education committee members and to BESE members a list of all publicly funded sites receiving a score of one due to a missing or not-reported CLASS® domain score and the number of such ones received by each site.

C. The department shall compare the domain level results from observations of classrooms conducted by the department's third-party contractors to the domain level results from observations conducted by the community network for each publicly-funded site.

1. In calculating the performance rating, the department shall replace domain level results from classroom observations conducted by community networks with the domain level results from observations conducted by the department's third-party contractors for any single domain in which the results differ by more than one point and shall calculate the performance rating using the replaced results.

2. The department shall monitor the domain level observation results of classroom observations conducted by community networks for each publicly-funded site, including by observer, and domain level observation results conducted by the department's third-party contractor for each publicly-funded site.

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. The department shall review results from the 2015-2016 learning year and recommend policy to BESE for 2016-2017 and beyond.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 3.0-5.99—proficient;
3. 1.0-2.99—needs improvement.

E. The numerical scale and performance rating shall be used for each CLASS® domain and for the overall performance rating.

F. BESE may transition to a five-level rating scale beginning with the 2017-2018 school year.

G. BESE shall review the overall rating calculation, including but not limited to data collected on the informational metrics of best practices, prior to the 2016-2017 school year and determine whether additional factors should be added to the rating calculation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§511. Performance Rating Calculations for Community Networks

A. The performance rating for a community network shall be calculated as follows.

1. CLASS® observation results shall be 50 percent of a community network performance rating.

2. An equitable access score for four-year olds shall be 50 percent of the community network performance rating.

3. BESE may include a weight for improvement on equitable access beginning with the 2016-2017 school year.

B. The CLASS® observation results shall be determined by averaging the results of all fall and spring domain level toddler and PreK observation results for all toddler and PreK classrooms within the community network.

1. Any classroom in a site that does not have the observations required in §503, or has not had all observation results reported, shall have a score of one assigned to each missing CLASS® domain. The score of one for missing observation or not-reported results shall be included in the performance rating calculation for the community network and the number of missing or not-reported observation results shall be reported on the community network's performance profile.

a. Lead agencies may be subject to termination as provided in §309.G for incomplete observations or observation results not reported.

2. The department shall compare the domain level results from observations of classrooms conducted by the department's third-party contractors to the domain level results from observations conducted by community network for each publicly-funded site.

a. In calculating the performance rating, the department shall replace domain level results from classroom observations conducted by community network with the domain level results from observations conducted by the department's third-party contractor for any single domain in which the results differ by more than one point and shall calculate the performance rating using the replaced results.

b. The department shall monitor domain level observation results of classroom observations conducted by community network for each publicly-funded site, including by observer, and domain level observation results conducted by the department's third-party contractors for each publicly-funded site.

i. For the 2015-2016 learning year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

ii. The department shall review results from the 2015-2016 school learning year and recommend policy to BESE for 2016-2017 and beyond.

C. The equitable access score shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a seven point scale according to:

Percentage of At-Risk Four-Year-Olds Served	Points
95-100%	7
90-94.9%	6
85-89.9%	5
80-85.9%	4
75-79.9%	3
70-74.9%	2
0-69.9%	1

D. The performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 3.0-5.99—proficient;
3. 1.0-2.99—needs improvement.

E. The numerical scale and performance rating shall be used for reporting each CLASS® domain and the overall performance rating.

F. BESE may transition to a five level rating scale beginning with the 2017-2018 academic year.

G. BESE shall review the overall rating calculation, including but not limited to data collected on the informational metrics of best practices, prior to the 2016-2017 school year and determine whether additional factors should be added to the rating calculation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices.

1. Child Assessment that Informs Instruction

a. Ready to Assess. Publicly-funded sites ensure all lead teachers have certification of reliability as provided by the assessment creator for each school year.

b. Ongoing Assessment. Publicly-funded sites ensure all publicly-funded children receive completed assessments in October, February, and May. Publicly-funded sites shall obtain approval from the department prior to using child assessment tools different from the assessment tool provided by the department.

c. Assessing Accurately. Publicly-funded sites ensure there is an assessment portfolio for every publicly-funded child that provides evidence of the assessment rating for that school year.

2. Investment in Quality Measures

a. Teacher/Child Ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

i. To achieve gold level ratios, publicly-funded sites use the following teacher/child ratios and group sizes:

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

ii. To achieve silver level ratios, publicly-funded sites use the following teacher/child ratios and group sizes:

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

iii. To achieve bronze level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

b. Teacher Preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

c. Standards-Based Curriculum. Publicly-funded sites use a curriculum that is aligned, to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

3. Family Engagement and Supports

a. Publicly-funded sites and community networks engage families and ensure families are satisfied with their children's care and education experience, as measured through a family survey that will be produced and managed by the department.

4. Community Network Supports (Reported at the Community Network Level Only)

a. Community networks ensure teachers have access to supports to address their professional development needs and aid them in supporting children's learning and development.

b. Community networks and publicly-funded sites ensure children are prepared for kindergarten.

B. The performance profile shall report the publicly-funded site and community network's use of the best practices identified in Subsection A by reporting the following informational metrics:

1. child assessment that informs instruction:

a. ready to assess—the percent of reliable lead teachers in each site and community network;

b. ongoing assessment—the percent of publicly-funded children who receive at least three assessments per school year in each program and community network; and

c. assessing accurately—the level to which assessment portfolios substantiate the assessment ratings for publicly-funded children in each site and community network;

2. investment in quality measures:

a. teacher/child ratios—the level of ratios used: gold, silver, or bronze;

b. prepared teachers—the percent of lead teachers holding varying levels of academic credentials and teacher certification for each site and community network; and

c. standards-based curriculum—the extent to which the curriculum in use by a site is aligned to the early learning and development standards contained in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

3. family engagement and supports:

a. for each site, the level of satisfaction community network families have reported with the site; and

b. for each community network, the level of satisfaction community network families have reported with the coordinated enrollment process;

4. community network supports (reported at the community network level only):

a. the level of satisfaction lead teachers have reported with the supports received from the community network; and

b. the percent of publicly-funded four-year-old children that are kindergarten ready at the beginning and end of the school year based on results from the child assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 31, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 28, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 28, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

2. child counts:

a. by October 31, the number of publicly-funded children in each publicly-funded site on October 1;

b. by February 28, the number of publicly-funded children in each publicly-funded site on February 1; and

c. by February 28, the number of publicly-funded children by site in the February 1 count that have been added or removed since the October 1 count;

3. CLASS® observation results:

a. within 10 business days after the observation, unless upon written request from the lead agency, the department grants a written extension of time for a specific observation based on the extenuating circumstances provided in the written request;

b. all fall observation period data by December 15; and

c. all spring observation period data by May 15;

4. child assessment results for publicly-funded infants, toddlers and PreK children by October 31, February 28, and May 31.

B. Publicly-funded sites shall report to the department by October 31, in the manner specified by the department, the following:

1. number of lead teachers with certification of reliability on the ongoing assessment used in the community network;

2. teacher/child ratios used in the site;

3. credential and certification status of each lead teacher; and

4. curriculum used in each classroom.

C. The department shall report to lead agencies on a monthly basis the number of CLASS® observations that have been submitted for publicly-funded programs in that community network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. The department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. All data correction must take place during the 30 calendar day period.

4. Data corrections may be submitted for the following reasons:

a. CLASS® observations results have been reported incorrectly; or

b. CLASS® observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. The department shall act upon and respond in writing within 30 calendar days of receiving a signed report from the general public regarding potential irregularities in data reporting.

D. Anonymous complaints may be acted upon at the discretion of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§519. Waivers of Accountability System Requirements

A. The state superintendent of education (state superintendent) shall have the authority to grant waivers to publicly-funded sites and community networks for specific requirements of the accountability system included in this Chapter.

1. Community Networks

a. Prior to October 1, any lead agency requesting a waiver on behalf of the community network, from a

requirement of the accountability system shall submit a request in writing to the department.

b. After October 1 and prior to the start of the data verification period established in §517, any lead agency with extenuating circumstances arising after October 1 may request a waiver by submitting a written request to the department that shall clearly state the extenuating circumstances on which the request is based.

2. Publicly-Funded Sites

a. Prior to October 1, any publicly-funded site requesting a waiver from a requirement of the accountability system shall submit a request in writing to the department and shall include a written statement of support for the waiver from the community network lead agency.

b. After October 1 and prior to the start of the data verification period established in §517, any publicly-funded site with extenuating circumstances arising after October 1 may request a waiver by submitting a written request to the department that shall clearly state the extenuating circumstances on which the request is based. The request shall include a written statement of support for the waiver from the community network lead agency.

B. All waiver requests shall cite the requirement(s) from which a waiver is being requested and shall clearly state the reasons why it being requested and why it should be granted. Waiver request shall include any supporting documentation that substantiates the need for the waiver.

C. The department shall respond in writing to waiver requests within 30 calendar days after receiving the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances.

C. A publicly-funded site or community network may request an appeal of its performance profile by submitting a written request for an appeal to the department within 15 calendar days of the department's release of the publicly-funded site or community network's performance profile.

D. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

E. The lead agency shall submit a written request for appeal on behalf of a community network that wishes to appeal its performance profile.

F. The department shall review all timely submitted appeal requests and make a recommendation to BESE during the first regularly-scheduled BESE meeting following receipt of the appeal request, or during the second regularly-scheduled BESE meeting if the appeal request is received within 10 working days of the first regularly-scheduled BESE meeting. Within this interval, the department shall notify the publicly-funded site or community network of its recommendation and allow the site or community network to respond in writing. The department's recommendation and the site or community network's response shall be submitted to BESE for final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§523. Disaster Consideration for Programs and Community Networks

A. A severe impact site meets either of the following conditions associated with disasters:

1. the site was closed, due to the disaster, for 18 or more consecutive school days during a given school year; or

2. the site gained or lost 25 percent or more of its population due to the disaster.

B. A severe impact community network is a community network that consists of 25 percent or more severe impact sites.

C. Severe impact sites and severe impact community networks qualify for a waiver for up to one school year from participation in the accountability system.

1. BESE shall not issue a performance profile for any severe impact site or severe impact community network for the school year in which the disaster occurred unless the site or community network requests that the performance profile be issued.

2. BESE shall not include severe impact site accountability system results in the performance profile for a community network that does not meet the severe impact criteria but has severe impact sites.

D. Community network lead agencies and sites may address situations not part of the severe impact disaster process through the waiver process for accountability system requirement set forth in §519.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 7. Coordinated Enrollment

§701. Age Cohorts

A. Children shall be placed in a single age cohort for counting purposes in a school year. Each child shall be placed in the appropriate age cohort at the beginning of the school year and shall remain in that age cohort for the entire school year.

B. A child's age cohort shall be determined by the child's age on September 30 of the school year.

C. Children shall be placed in age cohorts for a school year as follows:

1. four-year olds are children who have reached or will reach their fourth birthday on or before September 30;

2. three-year olds are children who have reached or will reach their third birthday on or before September 30;

3. two-year olds are children who have reached or will reach their second birthday on or before September 30;

4. one-year olds are children who have reached or will reach their first birthday on or before September 30; and

5. children ages birth to one year are children who have not reached and will not reach their first birthday by or before September 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§703. Coordinated Enrollment Process

A. Coordinated enrollment is the process developed and implemented by a community network to coordinate enrollment for infant, toddler, and PreK children in the community network whose families want to enroll them in a publicly-funded program in the community network.

B. The coordinated enrollment process consists of:

1. a coordinated information campaign through which the community network informs families about the availability of publicly-funded programs serving children ages birth to five years;

2. a coordinated eligibility determination through which the community network coordinates enrollment, eligibility criteria, and waiting lists to ensure that families are referred to other available publicly-funded early childhood programs should they be ineligible for or unable to access their primary choice;

3. a coordinated application process through which the community network conducts a unified application process so families can easily indicate their enrollment choices for publicly-funded programs; and

4. a matching based on family preference through which the community network enrolls at-risk children, using available public funds and based upon stated family preferences.

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of §703.B will be implemented. These policies and procedures shall be submitted to the department prior to initiation of the enrollment process.

D. Each community network shall operate a coordinated enrollment process for each school year, subject to the implementation timeline provided in §705.

E. The lead agency shall ensure the community network develops and implements a process to enroll publicly-funded children on an ongoing basis outside of the community network's established application period each year.

F. Any publicly-funded program that seeks to enroll children outside of their community network's coordinated enrollment process shall obtain prior written approval from the department.

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 15 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§705. Implementation Timeline

A. Community networks that began receiving funding prior to January 2015 shall develop and implement all four components of the coordinated enrollment process as defined in §703 during the 2015-2016 school year for use in enrollment that begins with the 2016-2017 school year.

B. Community networks that began receiving funding on or after January 2015 shall develop and implement all four components of the coordinated enrollment process as defined in §703 during the 2015-2016 and 2016-2017 school years for use in enrollment that begins with the 2017-2018 school year.

1. Community networks shall establish the coordinated information campaign, coordinated eligibility determination and coordinated application process as defined in §703.B.1-B.3 during the 2015-2016 school year for enrollment that begins with the 2016-2017 school year.

C. The state superintendent, pursuant to authority delegated by BESE, may grant a community network a one year extension of time to develop and implement the enrollment process.

1. Any community network that began receiving funding prior to January 2015 requesting an extension of time shall submit a written request to the department no later than December 1, 2015.

2. Any community network that began receiving funding on or after January 2015 requesting an extension of time shall submit a written request to the department no later than February 1, 2016.

3. The request shall include written justification of the need for the extension and an assurance that families will be informed of the enrollment process for all publicly-funded programs in the community network.

4. The state superintendent, or designee, shall respond in writing to a request within 30 calendar days of receipt of the request.

D. Community networks shall determine preliminary eligibility for families interested in CCAP during the coordinated eligibility determination as provided in §703.B.2 and the department shall determine final eligibility for CCAP.

E. Prior to the start of the 2016-2017 school year, BESE shall review this Chapter and revise as necessary based on learnings from the 2015-2016 learning year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process conducted in the learning year and make recommendations to the council and BESE for changes for implementation in 2016-2017. This research should include, but not be limited to, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§707. Demonstrated Progress toward Implementation

A. No later than August 31, 2015, each community network shall submit a self-assessment of its progress

toward full implementation of each component of the coordinated enrollment process as defined in §703.B.

B. The department may require community networks to complete an enrollment self-assessment each year.

C. The lead agency of any community network not making progress on coordinated enrollment, or not achieving the full coordinated enrollment process according to the timeline in §705, may be subject to BESE intervention, as specified in §711.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By March 31 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;

2. the number of seats requested at each publicly-funded site;

3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;

4. the recommended plan to maximize all funding sources to increase service to at-risk children; and

5. the number of seats being requested in a mixed delivery setting.

B. The lead agency shall provide an opportunity for each publicly-funded program in the community network and the general public in the coverage area of the community network to comment on the proposed funding request prior to submission to the department and shall include documentation of this process in the funding request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§711. Local Enrollment Coordinator

A. If the lead agency is not satisfactorily coordinating the duties and responsibilities of the community network pertaining to the community network's coordinated enrollment process, the department shall send written notification to the lead agency and all programs within the community network. The written notification shall identify the unsatisfactory performance issues and specify any corrective actions that may be required of the lead agency.

B. Within 30 calendar days of receiving such notice, the lead agency shall submit written certification to the department that corrective actions have been taken or are in the process of being taken and submit a timely implementation schedule for the department's approval.

C. If the lead agency does not respond in a timely or satisfactory manner or adhere to the implementation schedule approved by the department, the department may recommend that BESE terminate the lead agency's duties and responsibilities pertaining to coordinated enrollment and authorize a local enrollment coordinator for the community network.

D. A local enrollment coordinator is an entity authorized by BESE to assume responsibility for the services a lead agency is required to provide in coordinating the community network's coordinated enrollment process, as set forth in §309.B.1.b and §§703-709.

1. A local enrollment coordinator may be a state agency, including the department, a public school system, a nonprofit or for-profit corporation having an educational or social services mission, including but not limited to a nonprofit corporation of a philanthropic or policy nature, a Louisiana postsecondary education institution, or a nonprofit corporation established by the governing authority of a parish or municipality.

2. A local enrollment coordinator shall be authorized for a term no greater than five years.

3. A local enrollment coordinator authorized by BESE shall enter into a local enrollment coordinator agreement with the department.

4. If a local enrollment coordinator is authorized, the lead agency's allocation shall be reduced by, or the lead agency shall repay, an amount equal to that portion of the coordinated enrollment duties and responsibilities that remain outstanding.

E. If BESE terminates a lead agency's responsibilities pertaining to coordinated enrollment, but does not terminate the lead agency's approval to serve as the lead agency for the community network, the lead agency shall continue to serve as lead agency and coordinate all other duties and responsibilities of the community network.

F. Funding

1. For each local enrollment coordinator authorized by BESE, the department shall allocate not more than one percent of the public funds appropriated for each publicly-funded program in the community network to support the local enrollment coordinator.

2. The amount allocated from the funding for each publicly-funded site shall be proportionate to the number of publicly-funded children in the site enrolled by the local enrollment coordinator.

3. If an allocation cannot be made from a funding source to support the local enrollment coordinator, the amount established for that funding source to support the local enrollment coordinator shall be allocated from the remaining public funding sources in an amount proportionate to the number of children in each publicly-funded program enrolled by the local enrollment coordinator.

4. BESE shall not allocate additional funds to support local enrollment coordinators from any public funding source that has a per-child allocation or subsidy below the Louisiana average per-child allocation or subsidy for all programs included in the enrollment system.

G. Audit

1. A local enrollment coordinator shall annually submit to the department an independent financial audit conducted by a certified public accountant who has been approved by the legislative auditor. Such audit shall be accompanied by the auditor's statement that the report is free of material misstatements. The audit shall be limited in scope to those records necessary to ensure that the local

enrollment coordinator has used funds to perform required services, and it shall be submitted to the legislative auditor for review and investigation of any irregularities or audit findings.

2. The local early learning enrollment coordinator shall return to the state any funds that the legislative auditor determines were expended in a manner inconsistent with Louisiana law or BESE regulations.

3. The cost of such audit shall be paid by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator.

B. A request for departmental review shall be submitted in writing to the department no later than 10 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include necessary supporting documentation.

D. The department shall respond to the request for review within 30 calendar days after receiving the request or prior to BESE considering funding allocations, whichever is sooner.

E. No publicly-funded program or community network may request departmental review of the funding allocation approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Charles E. "Chas" Roemer, IV
President

1507#005

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.Chapters 1-7)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. This Declaration of Emergency rescinds and replaces the previous Declaration of Emergency for LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*, which was effective July 1, 2015. This Declaration of Emergency is necessary to make technical edits and to ensure wording is reported as approved by BESE.

Act 3 (Early Childhood Education Act) of the 2012 Regular Legislative Session required the creation of an early childhood care and education network; established the purposes of such network and the related duties and responsibilities of certain state agencies; provided for the development of early childhood education programs and standards; and provided for an accountability system for early childhood education programs. The purpose of Bulletin 140 is to establish the duties and responsibilities of the early childhood care and education network, local community networks and community network lead agencies, define kindergarten readiness, and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

This Declaration of Emergency, effective July 1, 2015, will remain in effect for a period of 120 days. The unified quality and improvement system will launch with a learning year in 2015-2016 whereby every early childhood site and community network will receive a practice performance profile. All publicly-funded early childhood programs will be required to participate, but there will be no funding or licensing consequences attached to the practice performance rating.

Title 28
EDUCATION
Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 1. General Provisions

§101. Purpose

A. The purpose of this bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks and community network lead agencies, define kindergarten readiness, and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§103. Definitions

8(g) Program—the Student Enhancement Block Grant Program administered by the Board of Elementary and Secondary Education that provides funding through the Louisiana education quality start fund that may be used to serve at-risk PreK children.

Assessment—see *early childhood care and education assessment*.

At-Risk—children are considered at-risk if their family income is at or below 185 percent of the federal poverty level according to the United States Department of Agriculture, or if they are in foster care, or they are English language learners, or they are experiencing homelessness, or they meet the definition of an "infant or toddler with a disability" found in 34 CFR §303.21 for children ages birth to three years or a "child with a disability" found in 34 CFR §300.8 for children ages three and older.

BESE—Board of Elementary and Secondary Education.

Caregiver—any person legally obligated to provide or secure care for a child, including a parent, legal custodian,

foster home parent, or other person providing a residence for the child.

CCAP—Child Care Assistance Program.

Child Care Assistance Program (CCAP)—federal program administered by the Louisiana Department of Education that makes payments to child care providers for child care services provided to eligible families.

CLASS®—classroom assessment scoring system.

Classroom—see *early childhood care and education classroom*.

Classroom Assessment Scoring System (CLASS®)—a classroom observation-based system used to assess and rate classroom quality across multiple areas using a scale of one to seven.

Community Network Coverage Area—the geographic area of a community network, which typically is the same geographical area as the local school district or school districts, but may be other coverage areas, as determined by the community network and approved by the department.

Coverage Area—see *community network coverage area*.

Department—Louisiana Department of Education.

Early Childhood Care and Education Assessment (Assessment)—observation-based process used to determine whether children ages birth to five years are growing and developing across all the areas of development and learning provided in *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

Early Childhood Care and Education Classroom (Classroom)—an infant, toddler or PreK classroom.

Early Childhood Care and Education Performance Profile (Performance Profile)—information regarding performance in preparing children for kindergarten that is reported each school year for each publicly-funded site and community network composed of the site or community network's performance rating and informational metrics.

Early Childhood Care and Education Performance Rating (Performance Rating)—measure of performance in preparing children for kindergarten that is reported each school year for each publicly-funded site and community network.

Early Childhood Care and Education Program (Program)—an early learning center-based or school-based organization that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten.

Early Childhood Care and Education Site (Site)—a distinct early learning center-based or school-based location that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten.

Early Learning Center—any child day care center, early Head Start, Head Start, or stand-alone prekindergarten program that is not attached to a school.

EarlySteps Program—program administered by the Louisiana Department of Health and Hospitals that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families according to the requirements of the Individuals with Disabilities Education Act (IDEA), Part C.

Equitable Access—the point at which every family who wishes to enroll their at-risk child in a publicly-funded program is able to do so.

Fall Observation Period—observation period between August 1 and December 15 of each year.

Fiscal Year—July 1-June 30.

Full Day—at least 6 continuous hours per day or more than 20 hours per week of care and instruction aligned with a typical school day.

Head Start and *Early Head Start Programs*—federally-funded early childhood care and education programs that promote and teach school readiness to children ages birth to five from low-income families and provide services in the areas of education, social services for families, nutrition, family engagement, health and mental health, as well as providing the physical plant and instructional staff members for such purposes (42 U.S.C. 9801 et seq., 45 CFR part 1300).

Individuals with Disabilities Education Act (IDEA), Part B—federal program administered by the Louisiana Department of Education that provides education funding for children with disabilities, ages 3 through 21.

Individuals with Disabilities Education Act (IDEA), Part C—federal program administered by the Louisiana Department of Health and Hospitals that provides early intervention services for infants and toddlers with disabilities ages birth to three years and their families to meet the developmental needs as identified by the individualized family services plan. See *EarlySteps Program*.

Infant—a child who has not yet reached 15 months of age.

Infant Classroom—a classroom in which the majority of children are infants.

Informational Metric—measure of early childhood care and education best practices at the site or community network level.

LA 4 Program—the Cecil J. Picard LA 4 Early Childhood Program that provides funding for PreK classrooms for four year old children who are eligible to enter kindergarten the following school year.

Lead Teacher—the early childhood care and education classroom teacher that is primarily responsible for the classroom and is required to meet the certification requirements in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

Learning Year—the 2015-2016 school year shall be a learning year for the early childhood care and education network.

Nonpublic School Early Childhood Development Program (NSECD)—Louisiana program administered by the Department of Education that provides funding for four-year-old preschool in BESE-approved nonpublic schools and type III early learning centers.

Notice—written notice is considered given:

1. when it is sent by email or fax to the last email address or fax number furnished to the department;
2. when it is hand-delivered; or
3. on the fifth calendar day after it was mailed to the last mailing address furnished to the department.

NSECD—nonpublic school early childhood development program.

Performance Profile—see *early childhood care and education performance profile*.

Performance Rating—see *early childhood care and education performance rating*.

PreK—prekindergarten.

PreK Child—a child age 36 months to 5 years who has not yet entered kindergarten.

PreK Classroom—a classroom in which the majority of children are PreK children.

Program—see *early childhood care and education program*.

Publicly-Funded Children—children ages birth to five years who have not yet entered kindergarten that are being served full day with funds from either CCAP, Early Head Start, Head Start, LA 4 Program, NSECD, 8(g) Block Grant, title 1 of ESEA, or IDEA Part B in a full day setting.

Publicly-Funded Classroom—see *publicly-funded early childhood care and education classroom*.

Publicly-Funded Early Childhood Care and Education Classroom—any infant, toddler or PreK classroom that includes a publicly-funded child or children.

Publicly-Funded Early Childhood Care and Education Program—an early learning center-based or school-based organization that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) Block Grant, title 1 of ESEA or IDEA Part B, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

Publicly-Funded Early Childhood Care and Education Site—a distinct early learning center-based or school-based location that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten in a full-day setting with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) Block Grant, title 1 of ESEA or IDEA Part B, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

Publicly-Funded Program—see publicly-funded early childhood care and education program.

Publicly-Funded Site—see publicly-funded early childhood care and education site.

Site—see *early childhood care and education site*.

Spring Observation Period—observation period between January 1 and May 15 of each school year.

State Superintendent—state superintendent of education.

Third-Party Independent Contractor (Third-Party Contractor)—contractor that is separate from and independent of the lead agency and the community network with whom the department enters into a contract to perform CLASS® observations on behalf of the department.

Title I—title I of the Elementary and Secondary Education Act (ESEA) that provides funding that may be used for preschool programs for disadvantaged children.

Toddler—a child age 15 months to 36 months.

Toddler Classroom—a classroom in which the majority of children are toddlers.

Type III Early Learning Center—an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 3. Early Childhood Care and Education Network

§301. Early Childhood Care and Education Network

A. The early childhood care and education network is established as the comprehensive and integrated network through which the Board of Elementary and Secondary Education (BESE) manages and oversees publicly-funded early childhood care and education programs in Louisiana to promote and improve kindergarten readiness.

B. The early childhood care and education network is comprised of the local community networks throughout the state.

C. The Department of Education (department), pursuant to authority delegated by BESE, manages and oversees the administration of the early childhood care and education network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§303. BESE's Duties and Responsibilities

A. To facilitate the creation of the early childhood care and education network, BESE shall:

1. establish a definition of kindergarten readiness aligned with Louisiana content standards for elementary and secondary schools (see §305 of this Chapter);

2. establish performance targets for children under the age of three and academic standards for kindergarten readiness for three- and four-year old children to be used in publicly-funded early childhood education programs (see *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*);

3. create a uniform assessment and accountability system for publicly-funded early childhood care and education programs that includes an early childhood care and education performance rating (performance rating) indicative of performance (see Chapter 5 of this bulletin);

4. align the standards for the licensing of child care facilities, including the requirements for participation in the Louisiana quality start child care rating system, with the standards established for early childhood education programs (see *Bulletin 137—Louisiana Licensing Early Learning Center Licensing Regulations* and *Bulletin 139—Louisiana Child Care and Development Fund Programs*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§305. Kindergarten Readiness Definition

A. Children who are ready for kindergarten are expected to demonstrate:

1. cognitive abilities, which include knowledge and skills in:

a. early literacy, such as phonological awareness, print concepts, alphabetic understanding, vocabulary, listening comprehension, and emergent writing;

b. basic numeracy concepts, such as rote counting and number awareness, sorting, classifying, comparing, patterning, and spatial relationships;

2. basic science concepts, such as making observations, exploring the world using their senses, and using appropriate scientific vocabulary related to topics;

3. basic social studies concepts, such as self-awareness and their relationship to family and community, and an awareness of money and time;

4. response to and participation in music, movement, visual and dramatic arts experiences and activities;

5. abilities, either assisted or unassisted, that show an awareness of health, hygiene, and environmental hazards, in addition to gross and fine motor skills;

6. social and emotional competencies, including self-regulation, self-identity, self-reliance, respect for others, and interpersonal skills; and

7. approaches to learning, such as reasoning and problem-solving, engagement, persistence, and eagerness to learn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§307. Publicly-Funded Early Childhood Care and Education Programs and Community Networks

A. Publicly-Funded Early Childhood Care and Education Program (Publicly-Funded Program)

1. Each publicly-funded program shall participate in the:

a. membership in the community network for its coverage area;

b. early childhood care and education accountability system (accountability system), as provided in Chapter 5; and

c. coordinated enrollment process, as provided in Chapter 7.

2. Any publicly-funded program that does not comply with Paragraph A.2 of this Section may be subject to the loss of its public funding.

B. Community Network

1. Each community network shall:

a. participate in the early childhood care and education accountability system (accountability system);

b. develop and implement a coordinated observation plan for the community network;

c. develop and implement a coordinated enrollment process for the community network;

d. have a lead agency;

e. support the department in disseminating and collecting an annual survey from lead teachers and families of every publicly-funded child; and

f. address other needs as identified by the community network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§309. Community Network Lead Agency

A. A community network lead agency is either a state agency, a local public school system, a non-profit or for-profit corporation having an educational or social services mission, including but not limited to a nonprofit corporation of a philanthropic or policy nature, a Louisiana public postsecondary institution, or a nonprofit corporation established by the governing authority of a parish or municipality, that is approved by BESE and that:

1. serves as the fiscal agent of the community network;

2. coordinates the duties and responsibilities of the community network; and

3. acts as the liaison between the community network and the department.

B. Duties and Responsibilities

1. The lead agency shall be responsible for coordinating the duties and responsibilities of the community network pertaining to:

a. coordinated classroom assessment scoring system (CLASS®) observations, as provided in §503, which includes but is not limited to:

i. submitting the community network's annual plan for coordinated CLASS® observations to the department;

ii. submitting all CLASS® observation results to the department; and

iii. sharing each publicly-funded program's CLASS® observation results with that publicly-funded program and sharing the aggregate CLASS® observation results for the community network with all publicly-funded programs in the community network, at least monthly;

b. coordinated enrollment, as provided in Chapter 7, which includes but is not limited to:

i. ensuring a coordinated enrollment process is operated by the community network each year as provided in §703;

ii. submitting to the department the community network's coordinated enrollment plan, which shall include signatures from each publicly-funded program in the community network indicating approval of the plan and shall describe how the community network will ensure coordinated enrollment for families within the community network who want to enroll their infant, toddler, or PreK children in a publicly-funded program in the community network;

iii. submitting counts to the department twice a year reflecting the total enrollment of at-risk children in all programs in the community network as of October 1 and as of February 1, according to the age cohorts provided in §701;

iv. submitting an annual request for funding to the department for publicly-funded programs in the community network that is based on the results of the coordinated enrollment process used in the community network and is subject to the requirements provided in §709; and

v. working with all publicly-funded programs in the community network to maximize all available resources to increase the quality of and access to the publicly-funded programs for at-risk children;

c. accountability system reporting, as provided in §515;

d. data verification, as provided in §517;

e. requesting waivers, as provided in §519;

f. submitting appeals, as provided in §521; and

g. demonstrating progress toward implementation of coordinated enrollment as provided in §707.

2. The lead agency shall not charge any publicly-funded program for any part of the coordinated observation process and shall not require publicly-funded programs to provide staff to conduct CLASS® observations.

C. Selection and Approval

1. Lead agencies shall be approved by BESE.

2. The department shall identify potential lead agencies through a competitive process and submit them to BESE for approval.

3. Applicants for lead agency shall demonstrate support from all publicly-funded programs within the community network by obtaining signatures from each and submitting them to the department in the competitive process.

4. By June 30 of each year, the department shall recommend the identified lead agencies to BESE for approval.

5. If BESE has not approved a lead agency for a community network by July 1, the department shall serve as lead agency for the community network.

6. Lead agencies approved by BESE shall serve for the fiscal year beginning July 1 and ending June 30.

D. Contracts

1. Lead agencies approved by BESE shall enter into a lead agency agreement with the department.

2. The lead agency may enter into a contract or agreement with an individual or entity for performance of specific tasks within the duties and responsibilities of the lead agency, but the lead agency remains responsible for satisfactory completion of the tasks.

E. Funding

1. Subject to available funding, lead agencies shall be funded based on the number of early childhood care and education classrooms (classrooms) in the network.

a. Lead agencies shall be notified of their total funding for the following fiscal year by June 30.

b. Lead agencies shall use funding solely to fulfill the duties and responsibilities of the community network as provided in this bulletin.

c. If the department is required to serve as a lead agency, the department shall be funded in the same manner as any other lead agency.

F. Audit

1. BESE may request a financial audit of the lead agency's use of funds allocated to it.

2. Audits shall be at the department's expense.

3. If a lead agency improperly uses its allocated funds, the lead agency may be required to repay the improperly used amount.

G. Termination of Lead Agency Approval

1. If a lead agency fails to satisfactorily and timely comply with the duties and responsibilities contained in this Bulletin or with any additional duties and responsibilities established in writing during the competitive process, the department shall notify the lead agency, and all publicly-funded programs within the community network in writing and specify any corrective actions that may be required.

2. Within 30 calendar days of receiving such notice, the lead agency shall submit in writing to the department certification that the corrective actions have been taken or are in the process of being taken and submit a timely implementation schedule for department approval.

3. If the lead agency does not respond in writing in a timely or satisfactory manner or adhere to the implementation schedule approved by the department, either or both of the following actions may occur.

a. The department may withhold funds from the lead agency for any work not yet performed.

b. The department may make a recommendation to BESE that approval of the lead agency be terminated.

4. If BESE terminates a lead agency's approval and does not approve a new lead agency, the department shall serve as lead agency for a community network.

5. The department shall notify all publicly-funded programs in a community network of any change in that community network's lead agency.

6. If a lead agency's approval is terminated:

a. the entity shall be ineligible to serve as lead agency in the community network from which its approval was terminated for a minimum period of 24 months;

b. if the entity serves as lead agency for more than one community network, the entity may continue to serve as lead agency for any community network for which its approval has not been terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§311. Complaints

A. Any program or individual may submit a written complaint to the department regarding the action or inaction of the lead agency in its community network.

B. A complaint shall be submitted in writing within 30 calendar days of the action or inaction of the lead agency upon with the complaint is based.

C. All complaints shall clearly state the action or inaction upon which the complaint is based and provide specific facts and documentation supporting the complaint.

D. The department shall act upon and respond in writing to all signed complainants within 30 calendar days of receiving the complaint.

E. Anonymous complaints may be acted upon at the discretion of the department.

F. Lead agencies shall not retaliate in any manner against a program or individual that submits a complaint to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in R.S. 17:407.36(C).

B. Type III early learning centers meeting the performance and academic standards shall receive academic approval from the department. Academic approval is verification by the department that the center is meeting the required performance and academic standards.

C. Initial Academic Approval for 2015-2016 Fiscal Year

1. Existing Type III Early Learning Centers

a. Academic approval shall be granted for the 2015-2016 fiscal year to any existing type III early learning center

that has submitted a signed copy of program partner profile and assurances (assurances) to the lead agency of the community network in its area, and is thereby agreeing to:

i. membership in the community network;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

b. The community network shall submit copies of assurances signed by type III early learning centers to the department within seven calendar days of receiving them or prior to July 1, 2015, whichever is earlier.

c. The department shall send written notice of academic approval to each type III early learning center that has submitted signed assurances to its community network in compliance with Subparagraph C.1.a by July 1, 2015.

2. Applicants for New Type III Early Learning Center Licenses

a. In order to obtain the initial academic approval required to be licensed as a type III early learning center, an applicant for a type III early learning center license must become a member of the community network in its coverage area and submit a signed copy of the program partner profile and assurances (assurances) to the lead agency of the community network thereby agreeing to:

i. membership in the community network;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

b. The department shall send written notice of academic approval to each Type III early learning center that has submitted signed assurances to its community network in compliance with Subparagraph C.2.a within 30 days of receipt of the signed .

D. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

E. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

F. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

G. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph H.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph H.2.c and send notice of termination of the center's academic approval.

H. Termination of Academic Approval

1. The department may terminate academic approval for:

a. violations of any provisions of this bulletin related to the performance and academic standards of the early childhood care and education network;

b. failure to timely comply with a corrective action plan provided by the department; or

c. any act of fraud, such as the submission of false or altered documents or information.

2. Notice

a. If a type III early learning center is in violation of any provision in Subsection A, the department shall notify the center in writing and may specify any corrective actions that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions have been taken or are in the process of being taken in compliance with the schedule provided and certification that the center will remain in compliance with all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner or adhere to the implementation schedule for required corrective actions, the department may terminate the center's academic approval by sending written notice of termination to the center.

d. Termination of the center's academic approval shall be effective when notice of termination is given.

I. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the termination of a type III early learning center's academic approval.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the termination of its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of termination of its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within ten working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination of its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 5. Early Childhood Care and Education Accountability System

§501. Early Childhood Care and Education Accountability System (Accountability System)

A. The early childhood care and education accountability system (accountability system) is the uniform accountability system created pursuant to R.S. 17:407.23(B)(3) and used to evaluate the performance of publicly-funded early childhood care and education sites and community networks in preparing children for kindergarten and to assign a performance profile to each site and community network.

B. Participants

1. Publicly-Funded Early Childhood Care and Education Sites (Publicly-Funded Sites)

a. All publicly-funded sites with at least one classroom on October 1 shall participate and shall be included in the accountability system.

b. All publicly-funded sites with at least one classroom on October 1 and one classroom on February 1 shall participate and shall receive a performance profile for the school year.

c. All classrooms in existence on either October 1 or February 1 in a publicly-funded site shall be included in the accountability system for that school year.

d. Publicly-funded sites that open after October 1 of a school year shall not participate in the accountability system, as provided in this Chapter, until the start of the following school year.

2. Community Networks

a. All community networks shall participate and shall be included in the accountability system and shall receive a performance profile for the school year.

b. If any publicly-funded site discontinues participation in a community network after October 1 by changing funding source, license type, or closing, its performance shall remain part of the community network performance profile for the school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§503. Coordinated Observation Plan and Observation Requirements

A. Coordinated observation is the local process by which each community network ensures that every classroom in a publicly-funded site in the community network receives two CLASS® observations each school year.

B. CLASS® Observation Requirements

1. A CLASS® observation is an observation of a classroom using the appropriate toddler or PreK CLASS® using all domains, typically occurring during the morning, in which a reliable observer conducts four 20-minute cycles of observation and note-taking followed by at least 10 minutes of scoring after each observation cycle.

2. Domains and Dimensions

a. CLASS® observations for toddler classrooms shall include both toddler CLASS® domains, which are emotional and behavioral support and engaged support for learning, and all dimensions contained within.

b. CLASS® observations for PreK classrooms shall include all three PreK CLASS® domains, which are emotional support, classroom organization, and instructional support, and all dimensions contained within.

3. Required Observations

a. All toddler and PreK classrooms in a publicly-funded site shall receive two CLASS® observations during the school year conducted by the community network.

b. One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

c. CLASS® observations conducted by third-party contractors hired by the department shall not count towards this requirement.

4. Use of Toddler or PreK CLASS®. Classrooms shall be observed with the same CLASS® throughout the school year based on the composition of the classroom when the observation plan required in §503.C is submitted according to the following.

a. A classroom that only has infant children or a classroom that has a mix of infant and toddler children in which a majority are infant children shall not be observed.

b. A classroom that has all toddler children or a classroom that has a mix of infant and toddler children in which the majority are toddler children shall be observed with the toddler CLASS®.

c. A classroom that has all PreK children or a classroom that has a mix of toddler and PreK children in which the majority are PreK children shall be observed with the PreK CLASS®.

C. Coordinated Observation Plan

1. Each community network shall submit for department approval no later than September 30 a written annual plan for coordinated observation using CLASS® that at a minimum includes:

a. the number of CLASS® observers who will conduct observations;

b. the total number and the location of toddler and PreK classrooms that must be observed;

c. an observation schedule that includes two observations for each toddler and PreK classroom identified in Subparagraph B.3.b of this Section, with one observation scheduled during the fall observation period and one during the spring observation period; and

d. a plan to ensure reliable data that includes the following requirements:

i. all observers are reliable, which is defined as all observers having a certification achieved by completing and passing all trainings and assessments required by Teachstone to conduct a CLASS® observation with validity and fidelity;

ii. all observers maintain inter-rater reliability and fidelity. Inter-rater reliability occurs when two or more

observers produce consistent observation results for the same classroom at the same time;

iii the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed; and

iv. no observer shall conduct an observation in which the observer is an immediate family member, as defined in R.S. 42:1101, of a teacher in the classroom being observed or an immediate family member of an individual who supervises or provides training or technical assistance to a teacher in the classroom being observed or has a direct financial interest in the site where the classroom is being observed.

D. Waiver

1. The state superintendent of education shall have the authority to grant waivers to lead agencies for specific requirements of the coordinated observation plan or observation requirements included in this Chapter, with the exception of Clause C.1.d.iv.

2. Lead agencies seeking a waiver shall submit a written request the department prior to or at the time of the submission of the coordinated enrollment plan. The request shall cite the specific requirement for which a waiver is being requested and shall clearly state the reasons why the waiver is being requested and why it should be granted. Waiver requests shall include any supporting documentation that substantiates the need for the waiver.

3. The department shall respond in writing to waiver requests within 30 calendar days after receiving the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§505. Performance Profiles

A. The performance profiles for publicly-funded sites and for community networks shall include:

1. a performance rating as provided in §509 for publicly-funded sites and as provided in §511 community networks; and

2. informational metrics as provided in §513.

B. Each publicly-funded site and each community network shall receive a performance profile based on performance each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§507. Performance Profile Implementation Timeline

A. The 2015-2016 school year shall be a learning year for publicly-funded sites and community networks.

1. A learning year is a year in which there are no consequences on publicly-funded sites or community networks as a result of their performance profile.

2. Performance profiles for the 2015-2016 learning year shall clearly indicate that the performance profile is practice and is from a learning year.

B. Every publicly-funded site, except those that begin operating after October 1, and every community network shall participate in the accountability system for the 2015-2016 learning year and shall receive a practice performance profile as provided in §501.

1. Type III early learning centers that do not participate in the accountability system may have their academic approval terminated.

2. All other publicly-funded sites that do not participate in the accountability system may be subject to the loss of public funding.

C. The 2016-2017 school year shall be the first school year in which publicly-funded sites and community networks are accountable for the performance rating earned.

D. Prior to the start of the 2016-2017 school year, BESE shall review this Chapter and revise as necessary based on learnings from the 2015-2016 learning year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the domain level toddler and PreK observation results from the fall and spring observation periods for all toddler and PreK classrooms within the site.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

B. Any classroom in a publicly-funded site that does not have the observations required in §503 or does not have all results reported, shall have a score of one assigned to each missing CLASS® domain score. The score of one for missing or not-reported observation results shall be included in the performance rating calculation for that site and the number of missing or not-reported observation results shall be reported on the performance profile.

1. Lead agencies may have their approval terminated as provided in §309.G for incomplete observations or observation results not reported.

2. Any site or program that has diligently sought observations from the lead agency, including written evidence of such efforts, and that has not been provided such observations, may request of BESE an appeal of its performance rating as described in §521. BESE shall consider diligent efforts and evidence thereof in determining the appeal.

3. Prior to the issuance of the publicly-funded site or community network profiles, the department shall provide to the advisory council on early childhood care and education committee members and to BESE members a list of all publicly funded sites receiving a score of one due to a missing or not-reported CLASS® domain score and the number of such ones received by each site.

C. The department shall compare the domain level results from observations of classrooms conducted by the department's third-party contractors to the domain level results from observations conducted by the community network for each publicly-funded site.

1. In calculating the performance rating, the department shall replace domain level results from classroom observations conducted by community networks with the domain level results from observations conducted by the department's third-party contractors for any single domain in which the results differ by more than one point

and shall calculate the performance rating using the replaced results.

2. The department shall monitor the domain level observation results of classroom observations conducted by community networks for each publicly-funded site, including by observer, and domain level observation results conducted by the department's third-party contractor for each publicly-funded site.

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. The department shall review results from the 2015-2016 learning year and recommend policy to BESE for 2016-2017 and beyond.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 3.0-5.99—proficient;
3. 1.0-2.99—needs improvement.

E. The numerical scale and performance rating shall be used for each CLASS® domain and for the overall performance rating.

F. BESE may transition to a five-level rating scale beginning with the 2017-2018 school year.

G. BESE shall review the overall rating calculation, including but not limited to data collected on the informational metrics of best practices, prior to the 2016-2017 school year and determine whether additional factors should be added to the rating calculation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§511. Performance Rating Calculations for Community Networks

A. The performance rating for a community network shall be calculated as follows.

1. CLASS® observation results shall be 50 percent of a community network performance rating.

2. An equitable access score for four-year-olds shall be 50 percent of the community network performance rating.

3. BESE may include a weight for improvement on equitable access beginning with the 2016-2017 school year.

B. The CLASS® observation results shall be determined by averaging the results of all fall and spring domain level toddler and PreK observation results for all toddler and PreK classrooms within the community network.

1. Any classroom in a site that does not have the observations required in §503, or has not had all observation results reported, shall have a score of one assigned to each missing CLASS® domain. The score of one for missing observation or not-reported results shall be included in the performance rating calculation for the community network and the number of missing or not-reported observation results shall be reported on the community network's performance profile.

a. Lead agencies may be subject to termination as provided in §309.G for incomplete observations or observation results not reported.

2. The department shall compare the domain level results from observations of classrooms conducted by the department's third-party contractors to the domain level results from observations conducted by community network for each publicly-funded site.

a. In calculating the performance rating, the department shall replace domain level results from classroom observations conducted by community network with the domain level results from observations conducted by the department's third-party contractor for any single domain in which the results differ by more than one point and shall calculate the performance rating using the replaced results.

b. The department shall monitor domain level observation results of classroom observations conducted by community network for each publicly-funded site, including by observer, and domain level observation results conducted by the department's third-party contractors for each publicly-funded site.

i. For the 2015-2016 learning year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

ii. The department shall review results from the 2015-2016 school learning year and recommend policy to BESE for 2016-2017 and beyond.

C. The equitable access score shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a seven point scale according to:

Percentage of At-Risk Four-Year-Olds Served	Points
95-100%	7
90-94.9%	6
85-89.9%	5
80-84.9%	4
75-79.9%	3
70-74.9%	2
0-69.9%	1

D. The performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 3.0-5.99—proficient;
3. 1.0-2.99—needs improvement.

E. The numerical scale and performance rating shall be used for reporting each CLASS® domain and the overall performance rating.

F. BESE may transition to a five level rating scale beginning with the 2017-2018 academic year.

G. BESE shall review the overall rating calculation, including but not limited to data collected on the informational metrics of best practices, prior to the 2016-

2017 school year and determine whether additional factors should be added to the rating calculation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices.

1. Child Assessment that Informs Instruction

a. Ready to Assess. Publicly-funded sites ensure all lead teachers have certification of reliability as provided by the assessment creator for each school year.

b. Ongoing Assessment. Publicly-funded sites ensure all publicly-funded children receive completed assessments in October, February, and May. Publicly-funded sites shall obtain approval from the department prior to using child assessment tools different from the assessment tool provided by the department.

c. Assessing Accurately. Publicly-funded sites ensure there is an assessment portfolio for every publicly-funded child that provides evidence of the assessment rating for that school year.

2. Investment in Quality Measures

a. Teacher/Child Ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

i. To achieve gold level ratios, publicly-funded sites use the following teacher/child ratios and group sizes.

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

ii. To achieve silver level ratios, publicly-funded sites use the following teacher/child ratios and group sizes.

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

iii. To achieve bronze level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

b. Teacher Preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

c. Standards-Based Curriculum. Publicly-funded sites use a curriculum that is aligned to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

3. Family Engagement and Supports

a. Publicly-funded sites and community networks engage families and ensure families are satisfied with their children's care and education experience, as measured through a family survey that will be produced and managed by the department.

4. Community Network Supports (Reported at the Community Network Level Only)

a. Community networks ensure teachers have access to supports to address their professional development needs and aid them in supporting children's learning and development.

b. Community networks and publicly-funded sites ensure children are prepared for kindergarten.

B. The performance profile shall report the publicly-funded site and community network's use of the best practices identified in Subsection A by reporting the following informational metrics:

1. child assessment that informs instruction:

a. ready to assess—the percent of reliable lead teachers in each site and community network;

b. ongoing assessment—the percent of publicly-funded children who receive at least three assessments per school year in each program and community network; and

c. assessing accurately—the level to which assessment portfolios substantiate the assessment ratings for publicly-funded children in each site and community network;

2. investment in quality measures:

a. teacher/child ratios—the level of ratios used: gold, silver, or bronze;

b. prepared teachers—the percent of lead teachers holding varying levels of academic credentials and teacher certification for each site and community network; and

c. standards-based curriculum—the extent to which the curriculum in use by a site is aligned to the early learning and development standards contained in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;

3. family engagement and supports:

a. for each site, the level of satisfaction community network families have reported with the site; and

b. for each community network, the level of satisfaction community network families have reported with the coordinated enrollment process;

4. community network supports (reported at the community network level only):

a. the level of satisfaction lead teachers have reported with the supports received from the community network; and

b. the percent of publicly-funded four-year-old children that are kindergarten ready at the beginning and end of the school year based on results from the child assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 31, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 28, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 28, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

2. child counts:

a. by October 31, the number of publicly-funded children in each publicly-funded site on October 1;

b. by February 28, the number of publicly-funded children in each publicly-funded site on February 1; and

c. by February 28, the number of publicly-funded children by site in the February 1 count that have been added or removed since the October 1 count;

3. CLASS® observation results:

a. within 10 business days after the observation, unless upon written request from the lead agency, the department grants a written extension of time for a specific observation based on the extenuating circumstances provided in the written request;

b. all fall observation period data by December 15; and

c. all spring observation period data by May 15;

4. child assessment results for publicly-funded infants, toddlers and PreK children by October 31, February 28, and May 31.

B. Publicly-funded sites shall report to the department by October 31, in the manner specified by the department, the following:

1. number of lead teachers with certification of reliability on the ongoing assessment used in the community network;

2. teacher/child ratios used in the site;

3. credential and certification status of each lead teacher; and

4. curriculum used in each classroom.

C. The department shall report to lead agencies on a monthly basis the number of CLASS® observations that have been submitted for publicly-funded programs in that community network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. The department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. All data correction must take place during the 30 calendar day period.

4. Data corrections may be submitted for the following reasons:

a. CLASS® observations results have been reported incorrectly; or

b. CLASS® observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. The department shall act upon and respond in writing within 30 calendar days of receiving a signed report from the general public regarding potential irregularities in data reporting.

D. Anonymous complaints may be acted upon at the discretion of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§519. Waivers of Accountability System Requirements

A. The state superintendent of education (state superintendent) shall have the authority to grant waivers to publicly-funded sites and community networks for specific requirements of the accountability system included in this Chapter.

1. Community Networks

a. Prior to October 1, any lead agency requesting a waiver on behalf of the community network from a requirement of the accountability system shall submit a request in writing to the department.

b. After October 1 and prior to the start of the data verification period established in §517, any lead agency with extenuating circumstances arising after October 1 may request a waiver by submitting a written request to the department that shall clearly state the extenuating circumstances on which the request is based.

2. Publicly-Funded Sites

a. Prior to October 1, any publicly-funded site requesting a waiver from a requirement of the accountability system shall submit a request in writing to the department and shall include a written statement of support for the waiver from the community network lead agency.

b. After October 1 and prior to the start of the data verification period established in §517, any publicly-funded site with extenuating circumstances arising after October 1 may request a waiver by submitting a written request to the department that shall clearly state the extenuating circumstances on which the request is based. The request shall include a written statement of support for the waiver from the community network lead agency.

B. All waiver requests shall cite the requirement(s) from which a waiver is being requested and shall clearly state the reasons why it being requested and why it should be granted. Waiver request shall include any supporting documentation that substantiates the need for the waiver.

C. The department shall respond in writing to waiver requests within 30 calendar days after receiving the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances.

C. A publicly-funded site or community network may request an appeal of its performance profile by submitting a written request for an appeal to the department within 15 calendar days of the department's release of the publicly-funded site or community network's performance profile.

D. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

E. The lead agency shall submit a written request for appeal on behalf of a community network that wishes to appeal its performance profile.

F. The department shall review all timely submitted appeal requests and make a recommendation to BESE during the first regularly scheduled BESE meeting following receipt of the appeal request, or during the second regularly scheduled BESE meeting if the appeal request is received within 10 working days of the first regularly-scheduled BESE meeting. Within this interval, the department shall notify the publicly-funded site or community network of its recommendation and allow the site or community network to respond in writing. The department's recommendation and the site or community network's response shall be submitted to BESE for final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§523. Disaster Consideration for Programs and Community Networks

A. A severe impact site meets either of the following conditions associated with disasters:

1. the site was closed, due to the disaster, for 18 or more consecutive school days during a given school year; or

2. the site gained or lost 25 percent or more of its population due to the disaster.

B. A severe impact community network is a community network that consists of 25 percent or more severe impact sites.

C. Severe impact sites and severe impact community networks qualify for a waiver for up to one school year from participation in the accountability system.

1. BESE shall not issue a performance profile for any severe impact site or severe impact community network for the school year in which the disaster occurred unless the site or community network requests that the performance profile be issued.

2. BESE shall not include severe impact site accountability system results in the performance profile for a community network that does not meet the severe impact criteria but has severe impact sites.

D. Community network lead agencies and sites may address situations not part of the severe impact disaster process through the waiver process for accountability system requirements set forth in §519.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 7. Coordinated Enrollment

§701. Age Cohorts

A. Children shall be placed in a single age cohort for counting purposes in a school year. Each child shall be placed in the appropriate age cohort at the beginning of the school year and shall remain in that age cohort for the entire school year.

B. A child's age cohort shall be determined by the child's age on September 30 of the school year.

C. Children shall be placed in age cohorts for a school year as follows:

1. four-year-olds are children who have reached or will reach their fourth birthday on or before September 30;

2. three-year-olds are children who have reached or will reach their third birthday on or before September 30;

3. two-year-olds are children who have reached or will reach their second birthday on or before September 30;

4. one-year-olds are children who have reached or will reach their first birthday on or before September 30; and

5. children ages birth to one year are children who have not reached and will not reach their first birthday by or before September 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§703. Coordinated Enrollment Process

A. Coordinated enrollment is the process developed and implemented by a community network to coordinate enrollment for infant, toddler, and PreK children in the community network whose families want to enroll them in a publicly-funded program in the community network.

B. The coordinated enrollment process consists of:

1. a coordinated information campaign through which the community network informs families about the availability of publicly-funded programs serving children ages birth to five years;

2. a coordinated eligibility determination through which the community network coordinates enrollment, eligibility criteria, and waiting lists to ensure that families are referred to other available publicly-funded early childhood programs should they be ineligible for or unable to access their primary choice;

3. a coordinated application process through which the community network conducts a unified application process so families can easily indicate their enrollment choices for publicly-funded programs; and

4. a matching based on family preference through which the community network enrolls at-risk children, using available public funds and based upon stated family preferences.

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of §703.B will be implemented. These policies

and procedures shall be submitted to the department prior to initiation of the enrollment process.

D. Each community network shall operate a coordinated enrollment process for each school year, subject to the implementation timeline provided in §705.

E. The lead agency shall ensure the community network develops and implements a process to enroll publicly-funded children on an ongoing basis outside of the community network's established application period each year.

F. Any publicly-funded program that seeks to enroll children outside of their community network's coordinated enrollment process shall obtain prior written approval from the department.

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 15 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§705. Implementation Timeline

A. Community networks that began receiving funding prior to January 2015 shall develop and implement all four components of the coordinated enrollment process as defined in §703 during the 2015-2016 school year for use in enrollment that begins with the 2016-2017 school year.

B. Community networks that began receiving funding on or after January 2015 shall develop and implement all four components of the coordinated enrollment process as defined in §703 during the 2015-2016 and 2016-2017 school years for use in enrollment that begins with the 2017-2018 school year.

1. Community networks shall establish the coordinated information campaign, coordinated eligibility determination and coordinated application process as defined in §703.B.1-B.3 during the 2015-2016 school year for enrollment that begins with the 2016-2017 school year.

C. The state superintendent, pursuant to authority delegated by BESE, may grant a community network a one year extension of time to develop and implement the enrollment process.

1. Any community network that began receiving funding prior to January 2015 requesting an extension of time shall submit a written request to the department no later than December 1, 2015.

2. Any community network that began receiving funding on or after January 2015 requesting an extension of time shall submit a written request to the department no later than February 1, 2016.

3. The request shall include written justification of the need for the extension and an assurance that families will be informed of the enrollment process for all publicly-funded programs in the community network.

4. The state superintendent, or designee, shall respond in writing to a request within 30 calendar days of receipt of the request.

D. Community networks shall determine preliminary eligibility for families interested in CCAP during the coordinated eligibility determination as provided in §703.B.2 and the department shall determine final eligibility for CCAP.

E. Prior to the start of the 2016-2017 school year, BESE shall review this Chapter and revise as necessary based on learnings from the 2015-2016 learning year. A work group of the early childhood care and education advisory council shall be formed to study the effectiveness of the coordinated enrollment process conducted in the learning year and make recommendations to the council and BESE for changes for implementation in 2016-2017. This research should include, but not be limited to, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§707. Demonstrated Progress toward Implementation

A. No later than August 31, 2015, each community network shall submit a self-assessment of its progress toward full implementation of each component of the coordinated enrollment process as defined in §703.B.

B. The department may require community networks to complete an enrollment self-assessment each year.

C. The lead agency of any community network not making progress on coordinated enrollment, or not achieving the full coordinated enrollment process according to the timeline in §705, may be subject to BESE intervention, as specified in §711.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By March 31 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;

2. the number of seats requested at each publicly-funded site;

3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;

4. the recommended plan to maximize all funding sources to increase service to at-risk children; and

5. the number of seats being requested in a mixed delivery setting.

B. The lead agency shall provide an opportunity for each publicly-funded program in the community network and the general public in the coverage area of the community network to comment on the proposed funding request prior to submission to the department and shall include documentation of this process in the funding request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§711. Local Enrollment Coordinator

A. If the lead agency is not satisfactorily coordinating the duties and responsibilities of the community network pertaining to the community network's coordinated enrollment process, the department shall send written notification to the lead agency and all programs within the community network. The written notification shall identify the unsatisfactory performance issues and specify any corrective actions that may be required of the lead agency.

B. Within 30 calendar days of receiving such notice, the lead agency shall submit written certification to the department that corrective actions have been taken or are in the process of being taken and submit a timely implementation schedule for the department's approval.

C. If the lead agency does not respond in a timely or satisfactory manner or adhere to the implementation schedule approved by the department, the department may recommend that BESE terminate the lead agency's duties and responsibilities pertaining to coordinated enrollment and authorize a local enrollment coordinator for the community network.

D. A local enrollment coordinator is an entity authorized by BESE to assume responsibility for the services a lead agency is required to provide in coordinating the community network's coordinated enrollment process, as set forth in §309.B.1.b and §§703-709.

1. A local enrollment coordinator may be a state agency, including the department, a public school system, a nonprofit or for-profit corporation having an educational or social services mission, including but not limited to a nonprofit corporation of a philanthropic or policy nature, a Louisiana postsecondary education institution, or a nonprofit corporation established by the governing authority of a parish or municipality.

2. A local enrollment coordinator shall be authorized for a term no greater than five years.

3. A local enrollment coordinator authorized by BESE shall enter into a local enrollment coordinator agreement with the department.

4. If a local enrollment coordinator is authorized, the lead agency's allocation shall be reduced by, or the lead agency shall repay, an amount equal to that portion of the coordinated enrollment duties and responsibilities that remain outstanding.

E. If BESE terminates a lead agency's responsibilities pertaining to coordinated enrollment, but does not terminate the lead agency's approval to serve as the lead agency for the community network, the lead agency shall continue to serve as lead agency and coordinate all other duties and responsibilities of the community network.

F. Funding

1. For each local enrollment coordinator authorized by BESE, the department shall allocate not more than one percent of the public funds appropriated for each publicly-funded program in the community network to support the local enrollment coordinator.

2. The amount allocated from the funding for each publicly-funded site shall be proportionate to the number of publicly-funded children in the site enrolled by the local enrollment coordinator.

3. If an allocation cannot be made from a funding source to support the local enrollment coordinator, the amount established for that funding source to support the local enrollment coordinator shall be allocated from the remaining public funding sources in an amount proportionate to the number of children in each publicly-funded program enrolled by the local enrollment coordinator.

4. BESE shall not allocate additional funds to support local enrollment coordinators from any public funding source that has a per-child allocation or subsidy below the Louisiana average per-child allocation or subsidy for all programs included in the enrollment system.

G. Audit

1. A local enrollment coordinator shall annually submit to the department an independent financial audit conducted by a certified public accountant who has been approved by the legislative auditor. Such audit shall be accompanied by the auditor's statement that the report is free of material misstatements. The audit shall be limited in scope to those records necessary to ensure that the local enrollment coordinator has used funds to perform required services, and it shall be submitted to the legislative auditor for review and investigation of any irregularities or audit findings.

2. The local early learning enrollment coordinator shall return to the state any funds that the legislative auditor determines were expended in a manner inconsistent with Louisiana law or BESE regulations.

3. The cost of such audit shall be paid by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator.

B. A request for departmental review shall be submitted in writing to the department no later than 10 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include necessary supporting documentation.

D. The department shall respond to the request for review within 30 calendar days after receiving the request or prior to BESE considering funding allocations, whichever is sooner.

E. No publicly-funded program or community network may request departmental review of the funding allocation approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407:91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Charles E. "Chas" Roemer, IV
President

1507#029

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Examiners of Psychologists

Board Vacancies (LAC 46:LXIII.1201)

The Louisiana Department of Health and Hospitals, Louisiana State Board of Examiners of Psychologists has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B)(1), to create a rule relative to filling unexpected board member vacancies in order for the board to officially function and carry out the duties of the Louisiana state Board of Examiners of Psychologists to safeguard life, health, property and the public welfare of this state. This Emergency Rule, effective June 25, 2015, will remain in effect for a period of 120 days or until reenacted by Emergency Rule or through the normal promulgation process, whichever comes first.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIII. Psychologists
Chapter 12. General Provisions—Board Vacancies
§1201. Vacancies

A. The board will notify the Governor's Office of any vacancy occurring in board membership.

B. The governor shall fill, within 30 calendar days, for the remainder of the term, any vacancy occurring in board membership for an unexpired term from a list of qualified candidates provided in the most recent election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:

Kelly Parker
Executive Director

1507#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Facility Need Review
(LAC 48:I.12501 and 12525)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.12501 and §12525 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. 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 facility need review (FNR) process to adopt provisions governing the inclusion of outpatient abortion facilities in the FNR Program (*Louisiana Register*, Volume 38, Number 8). The department promulgated an Emergency Rule which amended the provisions governing the FNR Program in order to revise the definition for *home and community-based service providers* to include monitored in-home caregiving (MIHC) services, and to revise the provisions governing the service area for adult day health care providers (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the FNR Program.

Effective July 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Facility Need Review Program.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning
Chapter 125. Facility Need Review
Subchapter A. General Provisions
§12501. Definitions

A. ...

* * *

Home and Community Based Service (HCBS) Providers—those agencies, institutions, societies, corporations, facilities, person or persons, or any other group intending to provide or providing respite care services, personal care attendant (PCA) services, supervised independent living (SIL) services, monitored in-home caregiving (MIHC) services, or any combination of services thereof, including respite providers, SIL providers, MIHC providers, and PCA providers.

* * *

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), amended LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 41:

Subchapter B. Determination of Bed, Unit, Facility, or Agency Need
§12525. Adult Day Health Care Providers

A. …

B. For purposes of facility need review, the service area for a proposed ADHC provider shall be within a 30 mile radius of the proposed physical address where the provider will be licensed.

C. - E.3. …

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 36:323 (February 2010), amended LR 41:

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 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

1507#078

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Facility Need Review
Outpatient Abortion Facilities
(LAC 48:I.Chapter 125)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.12501 and §12503 and repeals §12524 in the Medical Assistance Program as authorized by R.S. 36:254. 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 Rule governing the Facility Need Review Program (FNR) in order to adopt provisions for the inclusion of outpatient abortion facilities in the FNR process (*Louisiana Register*, Volume 38, Number 12).

The department now proposes to amend the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process. This action is being taken to avoid imminent peril to the public health, safety or welfare of women. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program for state fiscal year 2015-2016.

Effective July 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning
Chapter 125. Facility Need Review
Subchapter A. General Provisions
§12501. Definitions

A. ...

* * *

Outpatient Abortion Facility—Repealed.

* * *

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 41:135 (January 2015), LR 41:

§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. - 2. ...
3. adult day health care providers; and
4. hospice providers or inpatient hospice facilities.
5. Repealed.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs/ID, ADHC providers, and hospice providers that meet one of the following conditions:

1. - 2. ...

3. ADHC providers who were licensed as of December 31, 2009 or who had a completed initial licensing application submitted to the department by December 31, 2009, or who are enrolled or will enroll in the Louisiana Medicaid Program solely as a program for all-inclusive care for the elderly provider; or

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012.

5. Repealed.

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 38:1961 (August 2012), LR 41:136 (January 2015), LR 41:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12524. Outpatient Abortion Facilities

Repealed.

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 38:1961 (August 2012), repealed LR 41:

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

1507#020

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Home and Community-Based Services Providers
Licensing Standards
(LAC 48:I.Chapters 50 and 51)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 50 and adopts Chapter 51 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 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 licensing standards for home and community-based services (HCBS) providers to revise the definitions and the staffing qualifications (*Louisiana Register*, Volume 40, Number 5).

The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for HCBS providers to clarify these provisions and to include licensing provisions for monitored in-home caregiving services (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens who depend on services rendered by HCBS providers.

Effective July 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for HCBS providers.

Title 48
PUBLIC HEALTH—GENERAL
Part 1. General Administration
Subpart 3. Licensing and Certification
Chapter 50. Home and Community-Based Services Providers Licensing Standards

Subchapter A. General Provisions

§5001. Introduction

A. - B. …

C. Providers of the following services shall be licensed under the HCBS license:

1. - 5. ...

6. supervised independent living (SIL), including the shared living conversion services in a waiver home;

7. supported employment; and

8. monitored in-home caregiving (MIHC).

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 4. …

5. any person who is employed as part of a Department of Health and Hospitals' authorized self-direction program; and

a. for purposes of these provisions, a self-direction program shall be defined as a service delivery option based upon the principle of self-determination. The program enables clients and/or their authorized representative(s) to become the employer of the people they choose to hire to provide supports to them;

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 41:1007 (May 2014), LR 41:

§5003. Definitions

* * *

Monitored In-Home Caregiving—services provided by a principal caregiver to a client who lives in a private unlicensed residence. The principal caregiver shall reside with the client, and shall be contracted by the licensed HCBS provider having a MIHC service module.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), amended LR 41:1007 (May 2014), LR 41:

§5005. Licensure Requirements

A. - B.8. ...

C. An HCBS provider shall provide only those home and community-based services or modules:

1. specified on its license; and

2. only to clients residing in the provider's designated service area, DHH region, or at the provider's licensed location.

D. - J.1, Example. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:65 (January 2012), amended LR 41:

§5007. Initial Licensure Application Process

A. ...

B. The initial licensing application packet shall include:

1. - 9. ...

10. any other documentation or information required by the department for licensure including, but not limited to, a copy of the facility need review approval letter.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended LR 41:

Subchapter D. Service Delivery

§5043. Contract Services

A. ...

B. When services are provided through contract, a written contract must be established. The contract shall include all of the following items:

1. - 4. ...

5. a statement that the person contracted shall meet the same qualifications and training requirements as the position being contracted;

B.5.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:

Subchapter F. Provider Responsibilities

§5055. Core Staffing Requirements

A. - D.4....

E. Direct Care Staff

1. ...

2. The provider shall employ, either directly or through contract, direct care staff to ensure the provision of home and community-based services as required by the ISP.

E.3. - M.1.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended LR: 40:1001 (May 2014), LR 41:

Chapter 51. Home and Community-Based Services Providers

Subchapter N. Monitored In-Home Caregiving Module

§5101. General Provisions

A. Monitored in-home caregiving (MIHC) services are provided by a principal caregiver to a client who lives in a private unlicensed residence.

1. The principal caregiver shall:

a. be contracted by the licensed HCBS provider having a MIHC service module; and

b. reside with the client.

2. Professional staff employed by the HCBS provider shall provide oversight, support, and monitoring of the principal caregiver, service delivery, and client outcomes through on-site visits, training, and daily web-based electronic information exchange.

B. Providers applying for the monitored in-home caregiving module under the HCBS license shall meet the core licensing requirements (except those set forth in §5005.B.4, §5005.C and §5007.F.1.c) and the module specific requirements of this Section.

C. During any survey or investigation of the HCBS provider with the MIHC module conducted by the DHH-HSS, the survey process begins once the surveyor enters either the client's place of residence or the provider's licensed place of business. When the survey begins at the client's residence, the provider shall transmit any records requested by the HSS surveyor within two hours of such request to the location as designated by the HSS surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5103. Staffing Requirements, Qualifications, and Duties

A. The MIHC provider shall employ a registered nurse (RN) and a care manager who will monitor all clients served. The RN or the care manager may also serve as the administrator if he/she meets the requirements as set forth in §5055.A.1.

B. The HCBS provider with a MIHC module shall contract with at least one principal caregiver for each client served.

1. The principal caregiver shall:

a. serve only one client at any time; and

b. be able to provide sufficient time to the client as required to provide the care in accordance with the ISP.

2. Prior to MIHC services being provided to the client, the HCBS provider shall perform an assessment of the client's ability to be temporarily unattended by the principal caregiver and determine how the client will manage safely in the qualified setting without the continuous presence of a principal caregiver.

C. The MIHC registered nurse shall:

1. be licensed and in good standing with the Louisiana State Board of Nursing; and

2. have at least two years' experience in providing care to the elderly or to adults with disabilities.

D. The responsibilities of the registered nurse include:

1. participating in the determination of the qualified setting for MIHC services, based on on-site assessment of the premises;

2. ensuring that the client's applicable health care records are available and updated as deemed necessary;

3. developing, in collaboration with the care manager, client and principal caregiver, the client's person-centered ISP, based upon assessment of the client and medical information gathered or provided;

4. periodically reviewing and updating, at least annually, each client's ISP;

5. certifying, training, and evaluating principal caregivers in conjunction with the care manager;

6. monitoring, through daily review of electronic client progress notes, observation of at-home visits, and by documented consultations with other involved professionals, the status of all clients to ensure that MIHC services are delivered in accordance with the ISP;

7. conducting on-site visits with each client at the qualified setting at least every other month or more often as deemed necessary by the client's health status;

8. completing a nursing progress note corresponding with each on-site visit or more often as deemed necessary by the client's health status; and

9. planning for, and implementing, discharges of clients from MIHC services relative to if the health care needs of the client can be met in the qualified setting.

E. MIHC Care Manager Qualifications

1. The MIHC care manager shall meet one of the following requirements:

a. possess a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education;

b. possess a bachelor's or master's degree in nursing (RN) currently licensed in Louisiana (one year of experience as a licensed RN will substitute for the degree);

c. possess a bachelor's or master's degree in a human service related field which includes:

i. psychology;
ii. education;
iii. counseling;
iv. social services;
v. sociology;
vi. philosophy;
vii. family and participant sciences;
viii. criminal justice;
ix. rehabilitation services;
x. substance abuse treatment;
xi. gerontology; or
xii. vocational rehabilitation; or

d. possess a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields in §5103.E.1.c.i-xii.

2. The MIHC care manager shall have at least two years' experience in providing care to the elderly or to adults with disabilities.

3. The MIHC care manager may serve as the administrator of the HCBS provider; however, any such individual that serves as both administrator and care manager shall meet both sets of minimum qualifications and have the ability to service both sets of specified functions.

F. Care Manager Responsibilities. The following responsibilities of the care manager for the MIHC module shall substitute for the requirements in §5055.I and §5055.J. The responsibilities of the MIHC care manager shall include:

1. conducting the initial and ongoing assessment and determination of the qualified setting;

2. certifying, training, and evaluating principal caregivers in conjunction with the registered nurse;

3. developing, in collaboration with the registered nurse, an ISP for delivery of MIHC services for each client, based upon assessment and medical information gathered or provided;

4. monitoring, in collaboration with the registered nurse, through daily review of electronic client progress notes, and observation of at-home visits, the status of all clients to ensure that all MIHC services are delivered;

5. conducting on-site visits with each client at the qualified setting every other month or more often as deemed necessary by the client's health status;

6. completing a care management client progress note corresponding with each on-site visit every other month or more often as the client's condition warrants;

7. assisting with obtaining information and accessing other health-care and community services in accordance with the ISP;

8. reviewing and documenting the fire and safety procedures for the qualified setting;

9. providing training related to MIHC services for each principal caregiver before the principal caregiver begins to provide care;

10. participating in discharge planning of clients from monitored in-home care services by determining if the needs of the client can be met safely in the qualified setting;

11. reviewing and documenting that the qualified setting continues to meet the needs of the client, in accordance with the ISP, at every on-site visit and as situations change; and

l2. being readily accessible and available to the principal caregivers either by telephone or other means of prompt communication.

a. The care manager shall maintain a file on each principal caregiver which shall include documentation of each principal caregiver's performance during the care manager's bi-monthly on-site visit and more often as caregiver's performance warrants.

G. MIHC Principal Caregiver Qualifications. The following principal caregiver qualifications under the MIHC module shall substitute for the requirements in §5055.F.

1. The principal caregiver shall be certified by the HCBS provider before serving a client.

2. In order to be certified, the principal caregiver applicant shall:

a. participate in all required orientations, trainings, monitoring, and corrective actions required by the HCBS provider;

b. have a criminal background check conducted by the HCBS provider in accordance with the applicable state laws;

c. comply with the provisions of R.S. 40:2179-2179.2 and the rules regarding the direct service worker registry;

d. be at least 21 years of age and have a high school diploma or equivalent;

e. have the ability to read, write, and carry out directions competently as assigned; and

f. be trained in recognizing and responding to medical emergencies of clients.

3. To maintain certification, the principal caregiver shall reside in the state of Louisiana and shall provide MIHC services in a qualified setting located in Louisiana.

H. MIHC Principal Caregiver Responsibilities. The following principal caregiver responsibilities under the MIHC module shall substitute for the responsibilities in §5055.G. The responsibilities of the principal caregiver shall include:

1. supervision and assistance with personal care services for the client that is necessary for his/her health, safety and well-being in accordance with the ISP;

2. monitoring and reporting any non-urgent or non-emergency changes in the client's medical condition to the HCBS care manager;

3. promptly reporting and communicating a client's request for services or change in services to the care manager;

4. maintaining the qualified setting consistent with the criteria noted herein;

5. completing and submitting to the HCBS agency an electronic client progress note daily;

6. providing ongoing supervision of health-related activities, including, but not limited to:

a. reminding the client about prescribed medications;

b. ensuring that the client's prescriptions are refilled timely;

c. transporting or arranging for client transportation to medical and other appointments;

d. assisting the client to comply with health care instructions from health care providers, including but not limited to, dietary restrictions;

e. recognizing and promptly arranging for needed urgent medical care by activating the 911 call system;

f. notifying the care manager of the need for alternative care of the client;

g. immediately reporting any suspected abuse, neglect, or exploitation of a client to the HCBS care manager, as well as timely reporting any suspected abuse, neglect, or exploitation of a client to any other persons required by law to receive such notice;

h. immediately notifying the care manager when any of the following events occur:

i. death of a client;

ii. a medical emergency or any significant change in a client's health or functioning;

iii. a fire, accident, and/or injury that requires medical treatment or the medical diagnosis of a reportable communicable disease of the client and/or principal caregiver;

iv. any planned or unexpected departure from the residence by a client or principal caregiver; and

v. all other client or principal caregiver major incidents or accidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5105. Operational Requirements for Monitored In-Home Caregiving

A. Training. The following requirements for training and competency for the MIHC module shall substitute for the training and competency requirements in §5055.K, §5055.L, and §5055.M.

1. Prior to the principal caregiver providing MIHC services to a client, the HCBS provider shall ensure that the principal caregiver satisfactorily completes documented training in the following areas:

a. the client's support needs in accordance with the ISP, including the following:

i. medical and behavioral diagnoses;

ii. medical and behavioral health history;

iii. required ADLs and IADLs;

iv. management of aggressive behaviors, including acceptable and prohibited responses; and

v. any other pertinent information;

b. completion and transmission of the daily electronic client progress note;

c. emergency and safety procedures, including the HCBS provider's fire, safety, and disaster plans;

i. this training shall include recognizing and responding to medical emergencies or other emergencies that require an immediate call to 911;

d. detection and reporting suspected abuse, neglect and exploitation, including training on the written policies and procedures of the HCBS provider regarding these areas;

e. written policies and procedures of the HCBS provider including, but not limited to:

i. documentation and provider's reporting requirements;

ii. infection control;

iii. safety and maintenance of the qualified setting;

iv. assistance with medication(s);

v. assistance with ADLs and IADLs;

vi. transportation of clients; and

vii. client rights and privacy;

f. confidentiality;

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

h. the roles and responsibilities of the HCBS staff and the principal caregiver.

2. The HCBS provider shall ensure that each principal caregiver satisfactorily completes a basic first aid course within 45 days of hire.

B. Transmission of Information

1. The HCBS provider shall use secure, web-based information collection from principal caregivers for the purposes of monitoring client health and principal caregiver performance.

2. All protected health information shall be transferred, stored, and utilized in compliance with applicable federal and state privacy laws.

3. HCBS providers shall sign, maintain on file, and comply with the most current DHH HIPAA business associate addendum.

C. Monitoring. The HCBS provider shall provide ongoing monitoring of the client and the performance of the principal caregiver in accordance with the ISP. Ongoing monitoring shall consist of the following:

1. conducting on-site visits with each client at the qualified setting monthly by either the RN or the care manager in order to monitor the health and safety status of the client and to ensure that all MIHC services are delivered by the principal caregiver in accordance with the ISP;

2. reviewing and documenting at least every other month that the qualified setting meets the needs of the MIHC services to be provided to the client in accordance with the ISP;

3. receiving and reviewing the daily electronic client progress notes to monitor the client's health status and principal caregiver's performance to ensure appropriate and timely follow up;

4. ensuring the competency of the principal caregiver by written or oral exam before providing services and annually; and

5. ensuring that each principal caregiver receives annual training to address the needs of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5107. Qualified Setting Provisions

A. The residence where MIHC services are provided to a client shall be a qualified setting as stipulated herein. The qualified setting determination shall be completed by the HCBS provider as part of the admission process and on an on-going basis as stipulated herein.

B. In order for a setting to be determined qualified for MIHC services, the setting shall meet the following criteria:

1. is a private residence located in Louisiana, occupied by the client and a principal caregiver and shall not be subject to state licensure or certification as a hospital, nursing facility, group home, intermediate care facility for individuals with intellectual disabilities or as an adult residential care provider;

2. is accessible to meet the specific functional, health and mobility needs of the client residing in the qualified setting;

3. is in compliance with local health, fire, safety, occupancy, and state building codes for dwelling units;

4. is equipped with appropriate safety equipment, including, at a minimum, an easily accessible class ABC fire extinguisher, smoke and carbon monoxide detectors (which shall be audible in the client's and principal caregiver's sleeping areas when activated);

5. is equipped with heating and refrigeration equipment for client's meals and/or food preparation, e.g. warming or cooling prepared foods;

6. has a bedroom for the client which shall contain a bed unit appropriate to his/her size and specific needs that includes a frame, a mattress, and pillow(s). The bedroom shall have a closeable door and window coverings to ensure privacy of the client with adequate lighting to provide care in accordance with the ISP;

7. has a closet, permanent or portable, to store clothing or aids to physical functioning, if any, which is readily accessible to the client or the principal caregiver;

8. has a bathroom with functioning indoor plumbing for bathing and toileting with availability of a method to maintain safe water temperatures for bathing;

9. is equipped with functional air temperature controls which maintain an ambient seasonal temperature between 65 and 80 degrees Fahrenheit;

10. is maintained with pest control;

11. is equipped with a 24-hour accessible working telephone and/or other means of communication with health care providers;

12. is equipped with household first aid supplies to treat minor cuts or burns; and

13. as deemed necessary, has secured storage for potentially hazardous items, such as fire arms and ammunition, drugs or poisons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5109. Waiver of Module Provisions

A. In its application for a license, or upon renewal of its license, a provider may request a waiver of specific MIHC module licensing provisions.

1. The waiver request shall be submitted to HSS, and shall provide a detailed description as to why the provider is requesting that a certain licensing provision be waived.

2. HSS shall review such waiver request. Upon a good cause showing, HSS, at its discretion, may grant such waiver, provided that the health, safety, and welfare of the client is not deemed to be at risk by such waiver of the provision(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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

1507#079

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Community Choices Waiver
(LAC 50:XXI.8329 and 8601)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.8329 and §8601 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 of Aging and Adult Services amended the provisions governing the Community Choices Waiver to add two new waiver services, to incorporate a new service delivery method and to clarify the provisions governing personal assistance services (*Louisiana Register*, Volume 40, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to clarify the provisions of the April 20, 2014 Rule (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule.

This action is being taken to promote the health and welfare of waiver participants.

Effective July 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 83. Covered Services

§8329. Monitored In-Home Caregiving Services

A. Monitored in-home caregiving (MIHC) services are services provided by a principal caregiver to a participant who lives in a private unlicensed residence. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through on-site visits, training, and daily, web-based electronic information exchange.

B. - B.6. ...

C. Unless the individual is also the spouse of the participant, the following individuals are prohibited from being paid as a monitored in-home caregiving principal caregiver:

1. - 5. ...

D. Participants electing monitored in-home caregiving services shall not receive the following community choices waiver services during the period of time that the participant is receiving monitored in-home caregiving services:

1. - 3. ...

E. Monitored in-home caregiving providers must be licensed home and community based service providers with a monitored in-home caregiving module who employ professional staff, including a registered nurse and a care manager, to support principal caregivers to perform the direct care activities performed in the home. The agency provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The agency provider will pay per diem stipends to caregivers. F. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the most current DHH HIPAA business associate addendum.

1. - 3. Repealed.

G. ...

1. Monitored in-home caregiving services under tier 1 shall be available to the following resource utilization categories/scores as determined by the MDS-HC assessment:

a. special rehabilitation 1.21;
b. special rehabilitation 1.12;
c. special rehabilitation 1.11;
d. special care 3.11;
e. clinically complex 4.31;
f. clinically complex 4.21;
g. impaired cognition 5.21;
h. behavior problems 6.21;
i. reduced physical function 7.41; and
j. reduced physical function 7.31.

2. Monitored in-home caregiving services under tier 2 shall be available to the following resource utilization categories/scores as determined by the MDS-HC assessment:

a. extensive services 2.13;
b. extensive services 2.12;
c. extensive services 2.11; and
d. special care 3.12.

AUTHORITY NOTE: 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 40:792 (April 2014), amended LR 41:

Chapter 86. Organized Health Care Delivery System

§8601. General Provisions

A. - C. ...

D. Prior to enrollment, an OHCDS must show the ability to provide all of the services available in the Community Choices Waiver on December 1, 2012, with the exceptions of support coordination, transition intensive support coordination, transition services, environmental accessibility adaptations, and adult day health care if there is no licensed adult day health care provider in the service area.

AUTHORITY NOTE: 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 40:792 (April 2014), amended LR 41:

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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1507#080

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Community Choices Waiver
Electronic Visit Verification
(LAC 50:XXI.9305)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.9305 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 of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals who are elderly or have a disability through the Community Choices Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services (*Louisiana Register, Volume 41, Number 3)*. This Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Community Choices Waiver participants by assuring that they receive the services they need and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective July 31, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver to establish requirements for the use of an EVV system.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 7. Community Choices Waiver
Chapter 93. Provider Responsibilities
§9305. Electronic Visit Verification

A. Effective for dates of service on or after April 1, 2015, Community Choices Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Community Choices Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 41:

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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1507#080

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural,
Non-State Hospitals
Reinstatement of Additional Payments for
Hemophilia Blood Products
(LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 10) and other rare bleeding disorders (*Louisiana Register*, Volume 35, Number 4).

As a result of a budget shortfall in state fiscal year 2015, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to eliminate the additional

reimbursements for hemophilia blood products purchased by hospitals (*Louisiana Register*, Volume 41, Number 3).

House Bill 1 of the 2015 Regular Session of the Louisiana Legislature allocated funding to the department to reinstate the additional reimbursements for hemophilia related blood products. The department hereby amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to reinstate reimbursements for costs incurred in the purchase of blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for, hemophilia.

This Emergency Rule is being promulgated to avoid imminent peril to the public health, safety and welfare of Medicaid recipients by ensuring that they have access to medically necessary hospital services and medications for the treatment of hemophilia. It is estimated that the implementation of this Emergency Rule will increase expenditures for inpatient hospital services by approximately $300,000 for state fiscal year 2015-2016.

Effective July 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to reinstate additional reimbursements for hemophilia blood products.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§965. Hemophilia Blood Products

A. Effective for dates of service on or after July 1, 2015, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. Hospital Qualifications. To qualify for the additional reimbursement, the hospital must:

1. be classified as a major teaching hospital and contractually affiliated with a university located in Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a comprehensive hemophilia care center;

2. have provided clotting factors to a Medicaid recipient who:

a. has been diagnosed with hemophilia or other rare bleeding disorders for which the use of one or more clotting factors is Food and Drug Administration (FDA) approved; and

b. has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. have actual cost exceeding $50,000 for acquiring the blood products used in the provision of clotting factors during the hospitalization;

a. actual cost is the hospital's cost of acquiring blood products for the approved inpatient hospital dates of service as contained on the hospital's original invoices, less all discount and rebate programs applicable to the invoiced products.

C. Reimbursement. Hospitals who meet the qualifications in §965.B may receive reimbursement for their actual costs that exceed $50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. The request for reimbursement shall be submitted in a format specified by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2176 (October 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), LR 41:

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

1507#021

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Louisiana Health Insurance Premium Payment Program
(LAC 50:III.2311)

The Department of Health and Hospitals, Bureau of Health Services Financing rescinds the July 1, 2015 Emergency Rule governing the Louisiana Health Insurance Premium Payment Program. 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 an Emergency Rule to terminate the Louisiana Health Insurance Premium Payment (LaHIPP) program on July 1, 2015 (*Louisiana Register*, Volume 41, Number 6).

The department has now determined that it is necessary to rescind the provisions of the July 1, 2015 Emergency Rule.

Effective immediately, upon adoption of this Emergency Rule, the department shall return to the provisions in place governing LaHIPP located in LAC 50:III.2311. This action is being promulgated in order to promote the health and welfare of Medicaid recipients by ensuring that available employer-sponsored health insurance is the primary payor for certain Medicaid services.

Effective July 2, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing rescinds the Emergency Rule terminating the LaHIPP program which was published on page 1,067 of the June 20, 2015 edition of the *Louisiana Register*.

Kathy H. Kliebert
Secretary

1507#018

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20001 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 reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid-eligible individuals who reside in nursing facilities.

For state fiscal year (SFY) 2015-16, state general funds were required to continue nursing facility rates at the rebased level. Because of the fiscal crisis facing the state, the state general funds were not available to sustain the increased rates. Consequently, the department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect do not increase for the SFY 2016 rating period.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program for state fiscal year 2015-2016.

Effective July 11, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this Rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

a. attributable to depreciation;
b. capital related interest;
c. rent; and/or
d. lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the assessment reference date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

a. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;

b. a proportionate allocation of allowable employee benefits; and

c. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health and Hospitals.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's *Life Safety Code*. It is referred to hereafter as a fire sprinkler system.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and imposes the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (§20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to

account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident—Repealed.

Calendar Quarter—Repealed.

Capital Cost Component—Repealed.

1. - 4. Repealed.

Care Related Cost Component—Repealed.

Case Mix—Repealed.

Case-Mix Index—Repealed.

Case-Mix MDS Documentation Review (CMDR)—Repealed.

Cost Neutralization—Repealed.

Delinquent MDS Resident Assessment—Repealed.

Direct Care Cost Component—Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index—Repealed.

Example: Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR)—Repealed.

Index Factor—Repealed.

Minimum Data Set (MDS)—Repealed.

MDS Supportive Documentation Guidelines—Repealed.

Pass-Through Cost Component—Repealed.

Preliminary Case Mix Index Report (PCIR)—Repealed.

Rate Year—Repealed.

Resident-Day-Weighted Median Cost—Repealed.

RUG-III Resident Classification System—Repealed.

Summary Review Results Letter—Repealed.

1. Repealed.

Supervised Automatic Sprinkler System—Repealed.

Two-Hour Rated Wall—Repealed.

Unsupported MDS Resident Assessment—Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), LR 41:

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

1507#042

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Supplemental Payments
(LAC 50:II.20029)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:II.20029 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 reimbursement to non-state, government-owned or operated nursing facilities for long-term care services provided to Medicaid recipients. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to adopt provisions for supplemental Medicaid payments to qualifying non-state, government-owned or operated nursing facilities that enter into an agreement with the department (*Louisiana Register*, Volume 40, Number 12). This Emergency Rule is being promulgated to continue the provisions of the November 22, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients, ensure sufficient provider participation in the Nursing Facilities Program, and maintain adequate recipient access to nursing facility services.

Effective July 22, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to establish supplemental Medicaid payments for non-state, government-owned and operated nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20029. Supplemental Payments

A. Effective for dates of service on or after November 22, 2014, any nursing facility that is owned or operated by a non-state governmental entity may qualify for a Medicaid supplemental payment adjustment, in addition to the uniform Medicaid rates paid to nursing facilities.

B. The supplemental Medicaid payment to a non-state, government-owned or operated nursing facility shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272.

C. Payment Calculations. The Medicaid supplemental payment adjustment shall be calculated as follows. For each state fiscal year (SFY), the Medicaid supplemental payment shall be calculated as the difference between:

1. the amount that the department reasonably estimates would have been paid to nursing facilities that are owned or operated by a non-state governmental entity using the Medicare resource utilization groups (RUGs) prospective payment system. For each Medicaid resident that is in a nursing facility on the last day of a calendar quarter, the minimum data set (MDS) assessment that is in effect on that date is classified using the Medicare RUGs system. The Medicare rate applicable to the Medicare RUG, adjusted by the Medicare geographic wage index, equals the Medicaid resident's estimated Medicare rate. A simple average Medicare rate is determined for each nursing facility by summing the estimated Medicare rate for each Medicaid resident in the facility and dividing by total Medicaid residents in the facility; and

2. the Medicaid per diem rate for nursing facilities that are owned or operated by a non-state governmental entity. The Medicaid rate shall be adjusted to include laboratory, radiology, and pharmacy services to account for program differences in services between Medicaid and Medicare. The statewide average of laboratory, radiology, and pharmacy services is calculated using Medicaid cost report data.

D. Each participating nursing facility's upper payment limit (UPL) gap shall be determined as the difference between the estimated Medicare rate calculated in §20029.C.1 and the adjusted Medicaid rate calculated in §20029.C.2.

1. Each facility's UPL gap is multiplied by the Medicaid days to arrive at its supplemental payment amount. Medicaid days are taken from the Medicaid cost report.

E. Frequency of Payments and Calculations

1. For each calendar quarter, an estimated interim supplemental payment will be calculated as described in this Section utilizing the latest Medicare RUGs and payment rates and Medicaid cost reports and available Medicaid payment rates. Payments will be made to each nursing facility that is owned or operated by a non-state governmental entity and that has entered into an agreement with the department to participate in the supplemental payment program.

2. Following the completion of the state's fiscal year, the final supplemental payment amount for the state fiscal year just ended will be calculated. These calculations will be based on the final Medicare RUGs and payment rates and the most recently reviewed Medicaid cost reports and Medicaid payment rates that cover the just ended state fiscal year period. The final supplemental payment calculations will be compared to the estimated interim supplemental payments and the difference if positive will be paid to the non-state governmental entity, and if negative, collected from the non-state governmental entity.

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 41:

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

1507#082

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 August 10, 2015, 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
PUBLIC 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 41:

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

1507#083

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Standards for Participation
Electronic Visit Verification
(LAC 50:XV.12909)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12909 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 of Aging and Adult Services, through collaborative efforts, provide enhanced long-term personal care services and supports to individuals with functional impairments.

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services (LT-PCS) in order to adopt requirements which mandate that LT-PCS providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of persons with a functional impairment by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective July 31, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services to establish requirements for the use of an EVV system.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12909. Standards for Participation

A. - D.2. …

E. Electronic Visit Verification. Effective for dates of service on or after April, 1, 2015, providers of long-term personal care services shall use the electronic visit verification (EVV) system designated by the department for

automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), LR 41:

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

1507#084

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Recovery Audit Contractor Program
(LAC 50:I.Chapter 85)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:I.Chapter 85 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 Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 111-152 directed states to establish a Recovery Audit Contractor (RAC) program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement a Recovery Audit Contractor program. In compliance with the Patient Protection and Affordable Care Act (PPACA) and Act 568, the department promulgated an Emergency Rule which adopted provisions to establish the RAC program (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective July 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 9. Recovery
Chapter 85. Recovery Audit Contractor

§8501. General Provisions

A. Pursuant to the provisions of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, 111-152, and Act 562 of the Regular Session of the Louisiana Legislature, the Medicaid Program adopts provisions to establish a Recovery Audit Contractor (RAC) program.

B. These provisions do not prohibit or restrict any other audit functions that may be performed by the department or its contractors. This rule shall only apply to Medicaid RACs as they are defined in applicable federal law.

C. This Rule shall apply to RAC audits that begin on or after November 20, 2014, regardless of dates of claims reviewed.

AUTHORITY NOTE: 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 41:

§8503. Definitions

Adverse Determination—any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim or service being reduced either partially or completely.

Department—Department of Health and Hospitals (DHH) or any of its sections, bureaus, offices, or its contracted designee.

Provider—any healthcare entity enrolled with the department as a *provider* in the Medicaid program.

Recovery Audit Contractor(RAC —a Medicaid recovery audit contractor selected by the department to perform audits for the purpose of ensuring Medicaid program integrity in accordance with the provisions of 42 CFR 455 et seq.

AUTHORITY NOTE: 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 41:

§8505. Contractor Functions

A. Notwithstanding any law to the contrary, the RAC shall perform all of the following functions.

1. The RAC shall ensure it is reviewing claims within three years of the date of its initial payment. For purposes of this requirement, the three year look back period shall commence from the beginning date of the relevant audit.

2. The RAC shall send a determination letter concluding an audit within 60 days of receipt of all requested materials from a provider.

3. For any records which are requested from a provider, the RAC shall ensure proper identification of which records it is seeking. Information shall include, but is not limited to:

a. recipient name;
b. claim number;
c. medical record number (if known); and
d. date(s) of service.

B. Pursuant to applicable statute, the RAC program's scope of review shall exclude the following:

1. all claims processed or paid within 90 days of implementation of any Medicaid managed care program that relates to said claims. This shall not preclude review of claims not related to any Medicaid managed care program implementation;

2. claims processed or paid through a capitated Medicaid managed care program. This scope restriction shall not prohibit any audits of per member per month payments from the department to any capitated Medicaid managed care plan utilizing such claims; and

3. medical necessity reviews in which the provider has obtained prior authorization for the service.

C. The RAC shall refer claims it suspects to be fraudulent directly to the department for investigation.

AUTHORITY NOTE: 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 41:

§8507. Reimbursement and Recoupment

A. The department has in place, and shall retain, a process to ensure that providers receive or retain the appropriate reimbursement amount for claims within any look back period in which the RAC determines that services delivered have been improperly billed, but reasonable and necessary. It shall be the provider's responsibility to provide documentation to support and justify any recalculation.

B. The RAC and the department shall not recoup any overpayments identified by the RAC until all informal and formal appeals processes have been completed. For purposes of this Section, a final decision by the Division of Administrative Law shall be the conclusion of all formal appeals processes. This does not prohibit the provider from seeking judicial review and any remedies afforded thereunder.

AUTHORITY NOTE: 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 41:

§8509. Provider Notification

A. The RAC shall provide a detailed explanation in writing to a provider for any adverse determination as defined by state statute. This notification shall include, but not be limited to the following:

1. the reason(s) for the adverse determination;

2. the specific medical criteria on which the determination was based, if applicable;

3. an explanation of any provider appeal rights; and

4. an explanation of the appropriate reimbursement determined in accordance with §8507, if applicable.

AUTHORITY NOTE: 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 41:

§8511. Records Requests

A. The RAC shall limit records requests to not more than 1 percent of the number of claims filed by the provider for the specific service being reviewed in the previous state fiscal year during a 90 day period. The 1 percent shall be further limited to 200 records. For purposes of this Chapter, each specific service identified for review within the requested time period will be considered a separate and distinct audit.

B. The provider shall have 45 calendar days to comply with any records request unless an extension is mutually agreed upon. The 45 days shall begin on the date of receipt of any request.

1. *Date of Receipt*—two business days from the date of the request as confirmed by the post office date stamp.

C. If the RAC demonstrates a significant provider error rate relative to an audit of records, the RAC may make a request to the department to initiate an additional records request relative to the issue being reviewed for the purposes of further review and validation.

1. The provider shall be given an opportunity to provide written objections to the secretary or his/her designee of any subsequent records request. Decisions by the secretary or his/her designee in this area are final and not subject to further appeal or review.

2. This shall not be an adverse determination subject to the Administrative Procedure Act process.

3. A significant provider error rate shall be defined as 25 percent.

4. The RAC shall not make any requests allowed above until the time period for the informal appeals process has expired.

AUTHORITY NOTE: 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 41:

§8513. Audits and Records Submission

A. The RAC shall utilize provider self-audits only if mutually agreed to by the provider and the RAC.

B. If the provider is determined to be a low-risk provider, the RAC shall schedule any on-site audits with advance notice of not less than 10 business days. The RAC shall make a reasonable good-faith effort to establish a mutually agreed upon date and time, and shall document such efforts.

C. In association with an audit, providers shall be allowed to submit records in electronic format for their convenience. If the RAC requires a provider to produce records in any non-electronic format, the RAC shall make reasonable efforts to reimburse the provider for the reasonable cost of medical records reproduction consistent with 42 CFR 476.78.

1. The cost for medical record production shall be at the current federal rate at the time of reimbursement to the provider. This rate may be updated periodically, but in no circumstance shall it exceed the rate applicable under Louisiana statutes for public records requests.

2. Any costs associated with medical record production may be applied by the RAC as a credit against any overpayment or as a reduction against any underpayment. A tender of this amount shall be deemed a reasonable effort.

AUTHORITY NOTE: 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 41:

§8515. Appeals Process

A. A provider shall have a right to an informal and formal appeals process for adverse determinations made by the RAC.

B. The informal appeals process shall be conducted as follows.

1. Beginning on the date of issuance of any initial findings letter by the RAC, there shall be an informal discussion and consultation period. During this period the provider and RAC may communicate regarding any audit determinations.

2. Within 45 calendar days of receipt of written notification of an adverse determination from the RAC, a provider shall have the right to request an informal hearing relative to such determination. The department's Program Integrity Section shall be involved in this hearing. Any such request shall be in writing and the date of receipt shall be deemed to be two days after the date of the adverse determination letter.

3. The informal hearing shall occur within 30 days of receipt of the provider's request.

4. At the informal hearing the provider shall have the right to present information orally and in writing, the right to present documents, and the right to have the department and the RAC address any inquiry the provider may make concerning the reason for the adverse determination. A provider may be represented by an attorney or authorized representative, but any such individual must provide written notice of representation along with the request for informal hearing.

5. The RAC and the Program Integrity Section shall issue a final written decision related to the informal hearing within 15 calendar days of the hearing closure.

C. Within 30 days of issuance of an adverse determination of the RAC, if an informal hearing is not requested or there is a determination pursuant to an informal hearing, a provider may request an administrative appeal of the final decision by requesting a hearing before the Division of Administrative Law. A copy of any request for an administrative appeal shall be filed contemporaneously with the Program Integrity Section. The date of issuance of a final decision or determination pursuant to an informal hearing shall be two days from the date of such decision or determination.

D. The department shall report on its website the number of adverse determinations overturned on informal or formal appeals at the end of the month for the previous month.

E. If the department or the Division of Administrative Law hearing officer finds that the RAC determination was unreasonable, frivolous or without merit, then the RAC shall reimburse the provider for its reasonable costs associated with the appeals process. Reasonable costs include, but are not limited to, cost of reasonable attorney's costs and other reasonable expenses incurred to appeal the RAC's determination. The fact that a decision has been overturned or partially overturned via the appeals process shall not mean the determination was without merit.

AUTHORITY NOTE: 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 41:

§8517. Penalties and Sanctions

A. If the department determines that the RAC inappropriately denied a claim(s), the department may impose a penalty or sanction. A claim has been inappropriately denied when the:

1. adverse determination is not substantiated by applicable department policy or guidance and the RAC fails to utilize guidance provided by the department; or

2. RAC fails to follow any programmatic or statutory rules.

B. If more than 25 percent of the RAC's adverse determinations are overturned on informal or formal appeal, the department may impose a monetary penalty up to 10 percent of the cost of the claims to be awarded to the providers of the claims inappropriately determined, or a monetary penalty up to 5 percent of the RAC's total collections to 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 41:

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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1507#085

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Public Health

Minimum Disinfectant Residual Levels
in Public Water Systems
(LAC 51:XII.311, 355, 357, 361, 363, 367, 903, 1102, 1105, 1113, 1117, 1119, 1125, 1133, 1135, 1139 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) and in accordance with the intent of Act 573 of 2014, 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 July 1, 2015. 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, thus far, been found in four public water systems within 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 41:

§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 41:

§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 41:

§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 41:

§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 41:

§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 41:

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 41:

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 41:

§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]
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 41:

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 41:

§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 41:

§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), LR 41:

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 41:

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 41:

§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 41:

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 41:

Chapter 15. Approved Chemical Laboratories/Drinking Water

Subchapter A. Definitions and General Requirements

§1503. General Requirements

A. - C. …

D. - D.1. Repealed.

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 41:

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, DHH

1507#022

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Early Migratory Game Bird 2015-16 Hunting Seasons

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting seasons for early migratory birds during the 2015-2016 hunting season shall be as follows:

Dove: The term "dove" refers to the following species, and only the following species: mourning doves, white-winged doves, Eurasian collared-doves, and ringed turtle-doves.

Dove South Zone:
September 5 - 13
October 10 - December 1
December 19 - January 15

Dove North Zone:
September 5 - 27
October 10 - November 8
December 10 - January 15

Bag Limit: Mourning and white-winged doves and fully dressed Eurasian collared- and ringed turtle-doves: Daily bag limit 15 in aggregate, Possession 45 in aggregate, but note: there is no bag limit on Eurasian collared-doves or ringed turtle-doves provided that a fully feathered wing and head remain attached to the carcass of the bird. Fully dressed Eurasian collared-doves and ringed turtle-doves (those without a fully feathered wing and head naturally attached to the carcass) shall be included in the aggregate bag.

Dove Hunting Zones: The state shall be divided into north and south dove hunting zones by the following boundary: Beginning at the Texas-Louisiana border on LA Highway 12; thence east along LA Highway 12 to its intersection with U.S. Highway 190; thence east along U.S. Highway 190 to its intersection with Interstate 12; thence east along Interstate 12 to its intersection with Interstate 10; thence east along Interstate 10 to the Mississippi state line.

Teal: September 12 - September 27

Daily bag limit 6, possession limit 18, blue-winged, green-winged and cinnamon teal only. Federal and state waterfowl stamps required.

Rails: Split Season, Statewide, 70 days

September 12 - September 27

Remainder of season to be set in August with the duck regulations.

King and Clapper: Daily bag limit 15 in the aggregate and possession 45 in the aggregate

Sora and Virginia: Daily bag limit 25 in the aggregate and possession 75 in the aggregate

Gallinules: Split Season, Statewide, 70 days

September 12 - September 27

Remainder of season to be set in August with the duck regulations.

Common and Purple: Daily bag limit 15 in the aggregate, possession of 45 in the aggregate

Woodcock: December 18 - January 31, Statewide

Daily bag limit 3, possession limit 9

Snipe: Deferred to be set in August with the duck regulations

Extended Falconry Season

Mourning Doves: Statewide

September 13 - September 29

Woodcock: Split Season, Statewide

October 28 - December 17

February 1 - February 11

Falconry daily bag and possession limits for all permitted migratory game birds must not exceed 3 and 9 birds, respectively, singly or in the aggregate, during the extended falconry seasons and regular hunting seasons. Remainder of extended falconry seasons for ducks, rails, gallinules to be set in August with the duck regulations.

Shooting and Hawking Hours:

Dove: One-half hour before sunrise to sunset. Except opening day on WMA properties only, open at 12 noon. With the exception of Elbow Slough WMA, which is to open one-half hour before sunrise on opening day.

Teal, rails, gallinules, and woodcock: One-half hour before sunrise to sunset

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 100,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 2015 and extend through sunset on February 28, 2016.

Edwin "Pat" Manuel
Chairman

1507#041

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Closure in Majority of Shrimp Management Zones 1 and 2

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 7, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2015 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2015 spring inshore shrimp season will close on June 19, 2015 at 6:00 p.m. in state inside waters from the Mississippi/Louisiana state line westward to the western shore of Freshwater Bayou Canal except for the following waters:

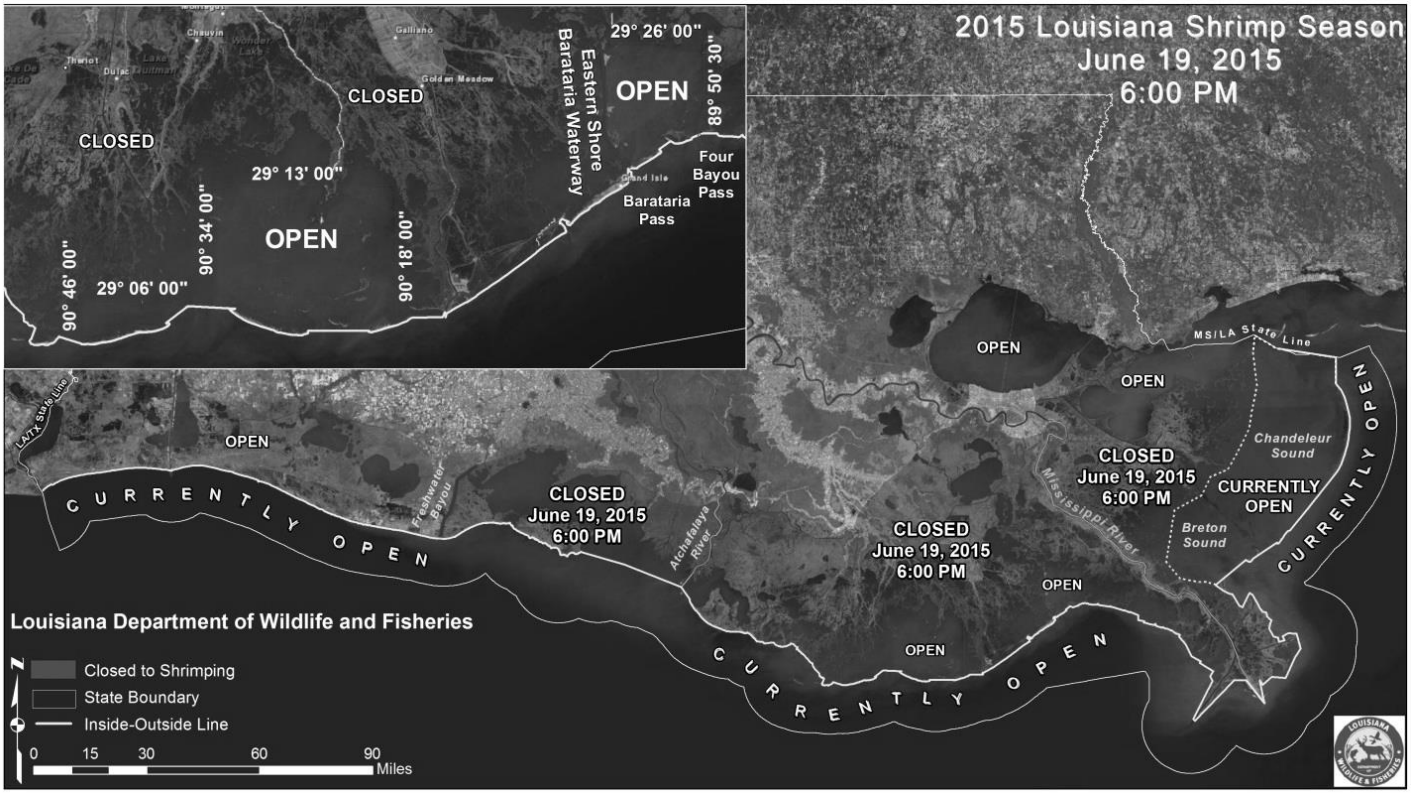
Lake Pontchartrain, Rigolets Pass, Chef Menteur Pass, that part of Lake Borgne seaward of a line extending one-half mile from the shoreline, and that portion of Mississippi Sound beginning at a point on the Louisiana-Mississippi lateral boundary at 30 degrees 09 minutes 39.6 seconds north latitude and 89 degrees 30 minutes 00.0 seconds west longitude; thence due south to a point at 30 degrees 05 minutes 00.0 seconds north latitude and 89 degrees 30 minutes 00.0 seconds west longitude; thence southeasterly to a point on the western shore of Three-Mile Pass at 30 degrees 03 minutes 00.0 seconds north latitude and 89 degrees 22 minutes 23.0 seconds west longitude; thence northeasterly to a point on Isle Au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude and 89 degrees 11 minutes 15.5 seconds west longitude, which is a point on the double-rig line as described in R.S. 56:495.1(A)2; thence northerly along the double-rig line to a point on the Louisiana-Mississippi lateral boundary at 30 degrees 12 minutes 37.9056 seconds north latitude and 89 degrees 10 minutes 57.9725 seconds west longitude; thence westerly along the Louisiana-Mississippi lateral boundary to the point of beginning; and, the open waters of Breton and Chandeleur Sounds as described by the double-rig line.

Those inside waters south of 29 degrees 26 minutes 00 seconds north latitude from 89 degrees 50 minutes 30 seconds west longitude westward to the western shore of the Barataria Waterway.

Those inside waters south of 29 degrees 13 minutes 00 seconds north latitude from 90 degrees 18 minutes 00 seconds west longitude westward to 90 degrees 34 minutes 00 seconds west longitude, and those inside waters south of 29 degrees 06 minutes 00 seconds north latitude from 90 degrees 34 minutes 00 seconds west longitude westward to 90 degrees 46 minutes 00 seconds west longitude.

All remaining state inside waters as well as all state outside waters seaward of the inside/outside shrimp line, as described in R.S. 56:495 will remain open to shrimping until further notice.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within these waters have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.



Robert J. Barham
Secretary

1507#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Closure
in the Remainder of Inshore Waters

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 7, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2015 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2015 spring inshore shrimp season will close on July 2, 2015 at 6 p.m. in the remainder of state inside waters from the western shore of Freshwater Bayou Canal westward to the Louisiana/Texas state line; and, in Lake Pontchartrain, Rigolets Pass, Chef Menteur Pass, that part of Lake Borgne seaward of a line extending one-half mile from the shoreline, and that portion of Mississippi Sound in Louisiana waters west of a line from a point on Isle Au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude and 89 degrees 11 minutes 15.5 seconds west longitude, which is a point on the double-rig line as described in R.S. 56:495.1(A)2; thence northerly along the double-rig line to a point on the Louisiana-Mississippi lateral boundary at 30 degrees 12 minutes 37.9056 seconds north latitude and 89 degrees 10 minutes 57.9725 seconds west longitude; and in those inside waters south of 29 degrees 26 minutes 00 seconds north latitude from 89 degrees 50 minutes 30 seconds west longitude westward to the western shore of the Barataria Waterway; and in those inside waters south of 29 degrees 13 minutes 00 seconds north latitude from 90 degrees 18 minutes 00 seconds west longitude westward to 90 degrees 34 minutes 00 seconds west longitude, and those inside waters south of 29 degrees 06 minutes 00 seconds north latitude from 90 degrees 34 minutes 00 seconds west longitude westward to 90 degrees 46 minutes 00 seconds west longitude.

The spring inshore shrimp season in the Vermilion/Teche River Basin and portions of the Lake Pontchartrain, Barataria and Terrebonne basins closed on June 19, 2015. Effective with this closure, all state inside waters except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line in R.S. 56:495.1(A)2 will be closed to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within these waters have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham
Secretary

1507#019

Rules

RULE

Department of Civil Service
Board of Ethics

Food and Drink Limit and
Act 857 of 2014 Legislative Session
(LAC 52:I.Chapters 13, 17, and 19)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, has amended its rules in order to comply with current statutory provisions and section 1115.1(C) of the *Code of Governmental Ethics* and repealed certain Sections to bring the rules into compliance with current statutory provisions in accordance with R.S. 42:1134(A)(3).

Title 52
ETHICS
Part I. Board of Ethics

Chapter 13. Records and Reports

§1312. Statements Filed Pursuant to Section 1124.6 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 238 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:1463 (July 2010), repealed LR 41:1262 (July 2015).

§1318. Statements Filed Pursuant to Section 1124 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:408 (March 2009), amended LR 36:233 (February 2010), repealed LR 41:1262 (July 2015).

§1319. Statements Filed Pursuant to Section 1124.2 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:421 (March 2009), amended LR 36:262 (February 2010), repealed LR 41:1262 (July 2015).

§1320. Statements Filed Pursuant to Section 11242.1 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:434 (March 2009), amended LR 36:292 (February 2010), repealed LR 41:1262 (July 2015).

§1321. Statements Filed Pursuant to Section 1124.3 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:440 (March 2009), amended LR 36:301 (February 2010), repealed LR 41:1262 (July 2015).

§1322. Statements Filed Pursuant to Section 1124.5 of the *Code of Governmental Ethics*

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:301 (February 2010), repealed LR 41:1262 (July 2015).

Chapter 17. *Code of Governmental Ethics*

§1703. Food and Drink Limit

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2015, the limit for food, drink or refreshments provided in R.S. 42:1115.1(A) and (B) is $60.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:3062 (November 2013) LR 40:1678 (September 2014), amended LR 41:1262 (July 2015).

Chapter 19. Legislative Branch Lobbyist Disclosure Act

§1906. Personal Financial Disclosure Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:2673 (December 2004), repromulgated LR 31:620 (March 2005), repealed LR 41:1262 (July 2015).

Kathleen M. Allen
Ethics Administrator

1507#061

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.303 and 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §303, Transition from Fall 2013 to Spring 2016 (2014, 2015, and 2016 SPS Release); and §519, Inclusion of Schools. The policy revisions extend the transition policies for school accountability by one year to ensure sufficient time to learn the higher expectations and to provide for a two-year baseline associated with the new assessments. The revisions also address an unusual circumstance involving early graduates.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 3. School Performance Score Component
§303. Transition from Fall 2013 to Spring 2016 (2014, 2015, and 2016 SPS Release)

A. Schools shall receive an annual 2013 SPS using the 150-point scale, as approved for the 2012-13 school year and as described in Chapters 3-6 of this bulletin.

B.1. In order to provide for a two-year baseline associated with new assessments in English language arts and mathematics, the LDE shall ensure that the distribution of school letter grades remains constant throughout this transition by assigning school letter grades for the 2013-2014, 2014-2015, and 2015-2016 school years based on the distribution of school letter grades by school type (e.g., K-8 v. combination v. high school) from the 2012-2013 school year.

a. If schools generally decline in performance scores, then the distributions (K-8, combination and high school) shall remain the same as in 2012-13 so as not to punish schools during the transition.

b. Any school or district that maintains or improves its annual performance score as compared to the 2012-13 performance scores shall not experience a decrease in its letter grade. Thus, if schools generally improve in performance scores, then the distributions shall improve as they would in any other year.

c. If, in implementing consistent distributions of letter grades, more than one school of the same type (e.g., K-8 school, combination school, or high school) earns the same school performance score (i.e., they are "tied"), then all such schools shall be awarded the same letter grade. For example, if a school earning a school performance score of 84.9 in the 2014-2015 school year is awarded a letter grade of B, all other schools of the same type earning a school performance score of 84.9 in the 2014-2015 school year shall also receive a letter grade of B.

2. Prior to the creation of the transitional ninth grade, some schools were categorized as combination schools, rather than high schools, simply because they offered 8th grade courses to a select group of students ineligible for 9th grade. Such schools shall be classified as high schools and the 12-13 distributions shall be adjusted to reflect this shift.

C. By the fall of 2015, BESE shall determine, in consultation with the Accountability Commission, the timeline and benchmarks needed to gradually raise the standard for student proficiency such that the average student in a school or district with a letter grade of "A" achieves at least "mastery" (level 4) on state assessments no later than the 2024-2025 school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2442 (September 2013), amended LR 40:760 (April 2014), LR 40:1314 (July 2014), LR 41:1263 (July 2015).

Chapter 5. Inclusion in Accountability
§519. Inclusion of Schools

A. All K-8 schools shall have a minimum of 40 testing units in any combination of LEAP, iLEAP, or LAA 1 assessments.

B. All 9-12 and combination schools shall have a minimum number of 40 units in any combination of graduation cohort membership and LEAP, iLEAP, LAA 1, or EOC assessments.

C. Each member of a cohort used to calculate a graduation index shall be counted as 4 units when determining the minimum number of units required calculating an SPS.

D. Inclusion of Indices

1. A school must have ten students in the graduation cohort to receive ~~a~~ the cohort graduation indices.

2. For schools with early graduates, an increasing grade configuration, and without cohort graduation members, ACT assessment scores shall be banked for the calculation of school performance scores until the accountability cycle associated with those early graduates, per cohort graduation policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014), LR 41:1263 (July 2015).

Shan N. Davis
Executive Director

1507#030

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.518, 1303, 1503, 1703, 2709, and 2801)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §518, BESE Pre-Opening Procedures Following Approval; §1303, Extension Review; §1503, Charter Renewal Process and Timeline; §1703, Revocation Proceedings; §2709, Enrollment of Students, Lottery, and Waitlist; and §2801, Transportation Requirements. The policy revisions set academic, financial, and organizational requirements that must be met before an existing Louisiana charter operator may open subsequent approved schools included in the original application of the operator; create transportation standards for BESE-authorized charter schools; and include technical edits and updates to timelines.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 5. Charter School Application and Approval Process
§518. BESE Pre-Opening Procedures Following Approval

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements developed by the department prior to executing a charter contract and prior to opening a school.

B. The department must certify completion of the pre-opening requirements prior to the opening of the school.

C. A charter operator may open additional schools included in its approved charter application if the academic, financial, and organizational performance requirements in this section are met prior to the operator entering pre-opening for the subsequent approved school.

1. Charter schools currently operated by the charter operator shall meet specific academic criteria as described within this Paragraph.

a. Schools currently operating under the oversight of the charter operator shall meet either of the following academic performance criteria:

i. an average school performance score equivalent to a letter grade of C, or higher, calculated in a manner that correlates to the district performance score formula outlined in *Bulletin 111—The Louisiana School, District, and State Accountability System*; or

ii. an average of five or more points of growth per year from the school's pre-assessment index, if available, for all schools awarded a T, D, or F letter grade.

b. If the charter operator contracts with a management organization, the state superintendent may consider the academic performance of all schools operating in Louisiana affiliated with the management organization in determining whether or not the charter operator is allowed to open a subsequent approved school.

c. The state superintendent may waive the academic performance criteria if likely new enrollees would otherwise predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

2. The majority of the charter operator's schools have received a "meets expectations" designation in the most recent evaluation of financial performance according to the charter school performance compact.

3. The majority of the charter operator's schools have received a "meets expectations" designation in the most recent evaluation of organizational performance according to the charter school performance compact, and each school has no unresolved notices of concern or breach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:870 (March 2011), amended LR 37:2385 (August 2011), LR 39:1432 (June 2013), LR 41:1263 (July 2015).

Chapter 13. Charter Term

§1303. Extension Review

A. …

B. Each type 2, type 4, and type 5 charter school's extension review shall be used to determine if the school will receive a one-year extension, as follows.

1. Contract Extension

a. Each charter school shall be reviewed based on academic, financial, and legal and contractual performance data collected by the Department of Education. If such performance data reveal that the charter school is achieving the following goals and objectives, the board shall extend the duration of the charter for a maximum initial term of five years.

i. For the 2015 and beyond extension processes, a charter school shall:

(a). meet or approach expectations on the most recent evaluation in financial performance according to the charter school performance compact and a financial risk assessment rating that has not been deemed to require "dialogue" as set forth in §1101.E; and

(b). have no violation of legal or contractual standards as defined in §1101.I.3; and

(c). meet one of the following student performance standards that aligns with the structure of the school:

(i). turnaround schools, schools qualified to receive a letter grade of "T" per Bulletin 111, §1105, school has earned a letter grade of "D" or higher based on performance data from the school's third year of operation; or school has made an average of 5 or more points of growth per year of the charter contract (from the pre-assessment index to the last year of data);

(ii). non-turnaround schools, school has earned a letter grade of "D" or higher based on performance data from the school's third year of operation;

(iii). alternative charter schools, schools approved by the department to use an alternative charter school extension and renewal framework, school has met the standards for extension from an alternative charter school extension and renewal framework.

2. - 3.b.…

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:3065 (November 2013), LR 40:1322 (July 2014), LR 41:1264 (July 2015).

Chapter 15. Charter Renewal

§1503. Charter Renewal Process and Timeline

A. ….

B. Student Performance

1. Each charter school is required to make demonstrable improvements in student performance over the term of its charter contract.

a. BESE will rely on data from the state's assessment and accountability program as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor each charter school's student performance data in all renewal decisions.

2. Consistent with the philosophy of rewarding strong performance and providing incentives for schools to strive for continual improvement, the renewal terms for BESE-authorized charter schools will be linked to each school's letter grade (based on the school's performance on the state assessment in the year prior to the renewal application) in accordance with the table that follows.

Maximum Charter Renewal Terms	
Letter Grades	**Maximum Renewal Term**
F	3 years
D	3 Years
C	6 Years
B	7 Years
A	10 years

3. A charter school in its initial term where fewer than 50 percent of its enrolled grades are testable under state

accountability will be eligible for a renewal term of three years.

4. For initial renewals during the 2015 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of "F" in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of "T" per Bulletin 111, §1105, that has made an average of five or more points of growth per year of the charter contract (from the pre-assessment index to the last year of data).

5. For subsequent renewals during the 2015 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of "D" or "F" in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of "T" per Bulletin 111, §1105, that has made an average of 5 or more points of assessment index growth per year of the charter contract.

6. If, in the state superintendent's judgment, the non-renewal of a charter school that does not meet the criteria for renewal in its initial or subsequent charter term would likely require many students to attend lower performing schools, and the state superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the state superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

C. - F.4. …

G. Automatic Renewal of Charter Schools

1. A charter school which has met or exceeded for the three preceding school years the benchmarks established for it in accordance with the school and district accountability system, has demonstrated growth in student academic achievement for the three proceeding schools years, and has had no significant audit findings during the term of the charter agreement shall be deemed a high-performing school, and such school's charter shall be automatically renewed.

2. A charter school that meets the following conditions shall be automatically renewed and shall be exempted from the renewal process requirements listed in this Section, as appropriate:

a. has received a letter grade of A or B;

b. has demonstrated growth in student academic achievement as measured by an increasing school performance score over the three preceding school years;

c. has received a "meets expectations" designation in its most recent evaluation in organizational performance according to the charter school performance compact;

d. has received a "meets expectations" designation in its most recent evaluation in financial performance according to the charter school performance compact; and

e. has no outstanding notices of concern or breach.

3. The automatic renewal term shall be in line with the terms specified in Paragraph B.2 of this Section.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015).

Chapter 17. Revocation

§1703. Revocation Proceedings

A. - A.4. …

B. Revocation Hearing for BESE-Authorized Charter Schools

1. The charter operator shall have an opportunity for a hearing prior to the revocation of its charter.

2. All charter school revocation hearings shall be heard by the School Improvement and Turnaround Committee of BESE.

3. Following the Department of Education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

C. - G.4. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 39:3067 (November 2013), LR 41:1265 (July 2015).

Chapter 27. Charter School Recruitment and Enrollment

§2709. Enrollment of Students, Lottery, and Waitlist

A. - I. …

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

1. Upon request of a charter operator, the department shall allow an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

2. In addition, the Department of Education shall manage a pilot program wherein the department shall allow an enrollment preference for those students matriculating or transferring into ninth grade or above between eligible BESE-authorized charter schools for a limited percentage of

the seats in the charter school, to be determined by the department. The department shall develop an application process for participation in the pilot program which shall evaluate factors including the applying charter schools' past demonstration of success in preparing at-risk and low-performing students for college and/or career, and the submission of an innovative proposal to utilize the enrollment preference to further this success. The department shall collect relevant data on the pilot program in order to prepare a report to be presented by the state superintendent to BESE no later than January, at which time BESE shall consider the continuation of the pilot program based on the results of the report. The report shall include data and information including, but not limited to:

a. the demographic and academic backgrounds of students utilizing the preference;

b. the number and percentage of students who matriculated or transferred into participating schools;

c. the number and percentage of students who were admitted to the school utilizing the enrollment preference; and

d. the number and percentage of students attempting to enroll or transfer in the charter school who were ineligible to utilize the enrollment preference.

K. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015).

Chapter 28. Transportation

§2801. Transportation Requirements

A. Each operator of a BESE authorized charter school shall offer free daily transportation to and from school to any student meeting both of the following conditions:

1. the student resides more than one mile from the school where the student is enrolled;

2. the student resides within the parish or local school district in which the school is physically located.

B. Charter operators shall submit school transportation plans to the LDE to ensure compliance with applicable laws and policies. The state superintendent shall set forth the process for transportation plan submission.

C. Charter operators having BESE authorized charter schools in operation during the 2015-2016 school year shall offer transportation to all eligible students no later than the beginning of the 2018-2019 school year. Charter operators having BESE authorized charter schools that begin operation in the 2016-2017 school year shall offer transportation upon opening.

D. The LDE shall develop a waiver process to exempt from this requirement any type 2 charter schools having a unique mission to serve students with exceptionalities, virtual schools, or other schools upon which this requirement would create a substantial financial burden. Such process shall be set forth the state superintendent, who shall update the board on any waivers granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1266 (July 2015).

Shan N. Davis
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1507#031

RULE

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
(LAC 28:CXLVII.Chapter 3 and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*: §105, Framework for LEA Personnel Evaluation Programs; §301, Overview of Personnel Evaluation; §303, Measures of Growth in Student Learning—Value-Added Model; §305, Measures of Growth in Student Learning—Learning Targets; §309, Standards of Effectiveness; and §701, Annual Summary Reporting Format. The policy revisions include changes to the Compass tool for teacher and leader evaluation as recommended by a subcommittee of the accountability commission. The subcommittee was formed as directed by Act 240 of the 2014 Regular Legislative Session.

Title 28
EDUCATION
Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, the 50 percent of the evaluation based upon growth in student learning shall measure the growth of their students using data from the value-added model and/or student learning targets, according to guidelines provided by the department. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

2. The 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. The combination of the applicable measure of growth in student learning and the qualitative assessment of performance shall result in a composite score used to distinguish levels of overall effectiveness for teachers and administrators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015).

§303. Measures of Growth in Student Learning—Value-Added Model

A. - F. …

G. During the transition to new standards and assessments and as a new two-year baseline is set, value-added data will not be available in 2013-2014, 2014-2015, or 2015-2016. During this time, the department shall provide transitional student growth data that may be used as a measure of student growth, at the evaluator's discretion. LEAs may define local rules pertaining to the use of such data.

H. When assigning a final student growth score, the administrator may adjust the value-added rating by plus or minus one rating level, based on the teacher's student learning target performance (e.g., the overall student growth rating may be a 2.0 (effective: emerging) or 4.0 (highly effective) if the value-added rating is 3.0 (effective: proficient)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:3123 (December 2012), LR 39:1273 (May 2013), LR 40:761 (April 2014), LR 41:1267 (July 2015).

§305. Measures of Growth in Student Learning—Learning Targets

A. The department shall expand the value-added model, as new state assessments become available.

B. For teachers and administrators, progress towards pre-determined student learning targets, as measured by state-approved common assessments, where available, shall inform the student growth component of the evaluation. Student learning targets shall include goals which express an expectation of growth in student achievement over a given period of time, as well as common measures for assessing attainment of those goals, such as an identified assessment and/or a body of evidence.

C. Teachers. A minimum of two student-learning targets shall be identified for each teacher. The department shall provide an evaluative tool for evaluators to use in assessing the quality and attainment of student learning targets.

1. State-approved common assessments shall be used as part of the body of evidence measuring students' attainment of learning targets, where available.

2. Where no state-approved common assessments are available, evaluatees and evaluators shall decide upon the appropriate assessment or assessments to measure students' attainment of learning targets.

3. LEAs may define consistent student learning targets across schools and classrooms for teachers with similar assignments, provided that they allow for ample flexibility to address the specific needs of students in each classroom.

D. Principals and Administrators. A minimum of two student learning targets shall be identified for each administrator.

1. For principals, the LDE shall provide recommended targets to use in assessing the quality and attainment of both student learning targets, which will be based upon a review of "similar" schools. The LDE will annually publish the methodology for defining "similar" schools.

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

4. Principals at schools with special populations (e.g. alternative schools) or those that do not have grades with standardized testing and available value-added data (e.g., K-2 schools) may define learning targets based on LDE guidance.

E. The department shall provide annual updates to LEAs relating to:

1. the expansion of state-standardized testing and the availability of value-added data, as applicable;

2. the expansion of state-approved common assessments to be used to build to bodies of evidence for student learning where the value-added model is not available; and

3. the revision of state-approved tools to be used in evaluating student learning targets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1267 (July 2015).

§309. Standards of Effectiveness

A. Teachers and administrators shall receive a final composite score on annual evaluations to determine their effectiveness rating for that academic year.

1. The 50 percent of evaluations that is based on student growth will be represented by a sub-score between 1.0 and 4.0.

2. The 50 percent of evaluations that is based on a qualitative assessment of performance will also be represented by a sub-score between 1.0 and 4.0.

3. The final composite score for teachers and administrators shall be the average of the two sub-scores and shall be represented as a score between 1.0 and 4.0.

B. The composite score ranges defining ineffective, effective (emerging or proficient) and highly effective performance shall be as follows.

Effectiveness Rating	Composite Score Range
Ineffective	$x<1.5$
Effective: Emerging	$1.5 \leq x < 2.5$
Effective: Proficient	$2.5 \leq x < 3.5$
Highly Effective	$3.5 \leq x$

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1217 (May 2012), amended LR 38:2360 (September 2012), LR 41:1267 (July 2015).

Chapter 7. Reporting and Monitoring

§701. Annual Summary Reporting Format

A. - A.6. …

B. The department shall annually report on the performance of administrators and teachers. Such reporting and monitoring shall include, but not be limited to, the following:

1. the percentage and number, where available, of administrators and teachers rated as highly effective, effective: proficient, effective: emerging, and ineffective;

2. the percentage and number, where available, of teachers whose student growth ratings are increased or decreased, per §303.H of this bulletin, relative to the value-added model rating; and

3. information on principal learning targets relative to those recommended by the LDE (e.g., percentage and number of principal learning targets that are above, at, or below the LDE recommended targets).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010), amended LR 38:1220 (May 2012), LR 38:2361 (September 2012), LR 39:1274 (May 2013), LR 41:1268 (July 2015).

Shan N. Davis
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1507#032

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
(LAC 28:LXXIX.2102 and 2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2102, Carnegie Credit and Credit Flexibility; and §2319, Health and Physical Education. The policy revisions clarify that Carnegie credit courses may be offered in middle school grades in all subject areas with the exception of physical education.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 21. Curriculum and Instruction

Subchapter A. General

§2102. Carnegie Credit and Credit Flexibility

A. Schools may permit students to earn Carnegie credit as middle school students in all courses except health and physical education.

B. Students may earn Carnegie credit in grades 5-12 two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or

2. by demonstrating proficiency as set forth below.

C. When awarding credit based on instructional time, schools shall provide a minimum of 7,965 instructional minutes for one Carnegie credit, and students shall be in attendance for a minimum of 7,515 minutes. In order to grant one-half Carnegie credit, schools shall provide a minimum of 3,983 instructional minutes, and students shall be in attendance for a minimum of 3,758 minutes.

D. When awarding Carnegie credit based on demonstrated proficiency, schools must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized; or

2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or

3. a listing of requirements to demonstrate proficiency through portfolio submissions.

E. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

F. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, grade earned, and the unit of credit earned entered on their transcript.

1. School systems shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, and R.S. 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014), LR 40:1682 (September 2014), LR 41:1268 (July 2015).

Chapter 23. High School Programs of Study

§2319. Health and Physical Education

A. - B. …

* * *

1. The required units of health and physical education may be earned only in grades 9-12.

2. A minimum of 30 hours of health instruction shall be taught in each of the two required health and physical education units. Instructional hours in health education accrued in middle school may be applied to satisfy this requirement.

3. Cardiopulmonary resuscitation (CPR) is required.

C. - F. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 39:1448 (June 2013), LR 40:1685 (September 2014), LR 41:1268 (July 2015).

Shan N. Davis
Executive Director

1507#036

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for
State Certification of School Personnel
(LAC 28:CXXXI.Chapters 2 and 6)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233, The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §235, The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §237, Certification-Only Program Alternative Path to Certification; §605, Requirements to add Early Childhood (Grades PK-3); §607, Requirements to add Elementary (Grades 1-5); and §630, Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010. The revisions reflect newly adopted titles of elementary exams required for Louisiana licensure.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Educator Preparation Programs
Subchapter B. Alternate Teacher Preparation Programs
§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - B.4. …

5. pass the Praxis content-specific examinations:

a. candidates for grades PK-3, pass Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. candidates for grades 1-5 (regular education and mild/moderate), pass Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

c. - e. ...

6. meet other non-course requirements established by college or university.

C. - I.3. …

4. passed the Praxis specialty examination for the area(s) of certification;

NOTE: This test was required for admission.

a. grades PK-3—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. grades 1-5 (regular and special education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

I.4.c. - L. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015), LR 41:1269 (July 2015).

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - C.3. …

4. pass the Praxis content-specific subject area examination:

a. candidates for PK-3 (regular education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. candidates for grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

c. - e. …

f. candidates for special education early interventionist birth to five years, significant disabilities 1-12, hearing impaired K-12, visual impairments/blind K-12—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

5. meet other non-course requirements established by the college/university.

D. Program Requirements

1. - 5.a. …

E. Certification Requirements. Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the master's degree program alternative certification path met the following requirements:

1. passed core academic skills for educators components of Praxis (as required for admission);

2. completed all coursework in the master's degree alternate certification program with a 2.50 or higher grade point average (GPA);

3. passed the specialty examination (Praxis) for the area of certification (this test was required for admission):

a. grades PK-3 (regular education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

b. grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (0014 or 5014 prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

c. - e. …

f. special education early interventionist (birth to five years), significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12—Elementary Education: Content Knowledge (0014 or 5014) specialty examination prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

4. - 5.b.…

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:549 (February 2011), LR 37:3209 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015), LR 41:1269 (July 2015).

§237. Certification-Only Program Alternative Path to Certification

A. - C.3.b. …

4. Testing requirements:

a. pass the Praxis core academic skills for educators. Candidates who already possess a graduate degree will be exempted from this requirement. An ACT composite score of 22 or a SAT combined verbal/critical reading and math score of 1030 may be used in lieu of Praxis core academic skills for educators exams;

b. pass the Praxis content-specific subject area examination:

i. candidates for PK-3 (regular education)—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

ii. candidates for grades 1-5—Elementary Education: Content Knowledge (0014 or 5014 prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

iii. candidates for grades 4-8—pass the middle school subject-specific examination for the content area(s) to be certified;

iv. candidates for grades 6-12—pass the secondary subject-specific examination for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area;

v. candidates for all-level K-12 areas of art, dance, foreign language, health and physical education, and music—pass the subject-specific examination for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Provider must develop a process to ensure that candidates demonstrate necessary performance skills in the all-level certification area;

vi. candidates for special education early interventionist birth to five years, significant disabilities 1-12, hearing impaired K-12, and visual impairments/blind K-12—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001).

D. - E.2.c. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:550 (February 2011), LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 41:645 (April 2015), LR 41:1270 (July 2015).

Chapter 6. Endorsements to Existing Certificates

Subchapter A. Regular Education Level and Area Endorsements

§605. Requirements to add Early Childhood (Grades PK-3)

A. - A.3. …

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary school certificate (e.g., 6-12, 7-12, 9-12), special education certificate (other than early interventionist), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, music) must achieve the following:

1. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

2. passing score for Praxis—Principles of Learning and Teaching Early Childhood (0621 or 5621) or accumulate 12 credit hours of combined early childhood and kindergarten coursework.

C. Individuals holding a valid early interventionist certificate must achieve the following:

1. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

2. twelve credit hours of combined early childhood and kindergarten coursework; and

3. …

D. Individuals holding a valid birth to kindergarten certificate must achieve the following:

1. passing score for Praxis Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective

9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001; and

2. nine semester hours of reading coursework or passing score for Praxis—Teaching Reading exam (0204 or 5204).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 37:883 (March 2011), repromulgated LR 37:1561 (June 2011), amended LR 37:3215 (November 2011), LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:648 (April 2015), LR 41:918 (May 2015), LR 41:1270 (July 2015).

§607. Requirements to add Elementary (Grades 1-5)

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3) must achieve the following:

1. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001);

2. passing score for Praxis—Principles of Learning and Teaching K-6 exam; and

3. nine semester hours of reading or passing score for Praxis—Teaching Reading exam (0204 or 5204).

B. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1.a. passing score for Praxis—Elementary Education: Content Knowledge (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001); or

b. accumulate:

i. 12 semester hours of mathematics;

ii. 12 semester hours of science;

iii. 12 semester hours of English language arts; and

iv. 12 semester hours of social studies;

2. passing score for Praxis Principles of Learning and Teaching K-6 exam; and

3. nine semester hours of reading.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:648 (April 2015), LR 41:1271 (July 2015).

Subchapter B. Special Education Level and Area Endorsements

§630. Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010

A. - B.1.f. …

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543), Principles of Learning and Teaching (PLT): K-6, and Elementary Education: Content Knowledge Exam (0014 or 5014) prior to 9/1/15; effective 9/1/15 to 8/31/17 pass Elementary Education: Content Knowledge (5018) or Elementary Education: Multiple Subjects (5001); mandatory 9/1/17 pass Elementary Education: Multiple Subjects (5001).

C. - E.2.b. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1485 (August 2009), amended LR 37:553 (February 2011), LR 39:1464 (June 2013), LR 41:648 (April 2015), LR 41:1271 (July 2015).

Shan N. Davis
Executive Director

1507#033

RULE

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.307, 503 and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1566—Pupil Progression Policies and Procedures*: §307, Submission Process; §503, Regular Placement; and §701, Promotion Standard. The policy revisions extend the transition policies for student promotion and school accountability by one year to ensure sufficient time to learn the higher expectations and to provide for a two-year baseline associated with the new assessments. The revisions also repeal duplicate policy.

Title 28
EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan

§307. Submission Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:64 (January 2000), 27:1517 (September 2001), repealed LR 41:1271 (July 2015).

Chapter 5. Placement Policies—General Requirements

§503. Regular Placement

A. - A.1.e. …

B. Requirements for High School Students

1. Each plan shall include the following statements, that:

a. for incoming freshmen prior to 2010-2011, in addition to completing the required minimum number of 23 Carnegie units of credit as presented by BESE, the students

must pass the required components of the graduation exit examination (GEE) in order to receive a high school diploma;

b. for incoming freshmen in 2010-2011 and beyond, in addition to completing the required minimum number of Carnegie units of credits as presented by BESE, students must pass the required end-of-course tests to receive a high school diploma;

c. beginning with the conclusion of the 2013-2014 school year, any first-time eighth grade student who does not meet the passing standard set forth in §701 of this bulletin and any student not eligible for any waiver pursuant to §707 of this bulletin, after taking the state assessments in spring and summer, may be placed on a high school campus in transitional ninth grade;

d. at the conclusion of the 2014-2015 and 2015-2016 school years, LEAs shall follow the guidelines set forth in §701.B to determine, based on evidence of student learning, whether eighth grade students may be promoted to the ninth grade or placed on a high school campus in transitional ninth grade. The percentage of an LEA's eighth graders placed in transitional ninth grade is expected to remain stable over time. In the event that the percentage of an LEA's eighth graders placed in transitional ninth grade in 2015-2016 exceeds the percentage of eighth graders in that LEA eligible for transitional ninth grade at the conclusion of the 2013-2014 school year, the local superintendent of that LEA shall provide a written justification to the state superintendent;

e. the decision to place a student in the transitional ninth grade or to retain a student in the eighth grade shall be made by the school in which the student is enrolled in the eighth grade, in consultation with the student's parents;

f. each LEA shall admit transitional ninth grade students, subject to any admissions requirements approved by the school's governing authority or charter authorizer;

g. the following shall govern the transitional ninth grade.

i. Students placed in the transitional ninth grade shall participate in the summer remediation program offered by the LEA and the summer retest.

ii. After one full year of transitional ninth grade, students shall be included in the ninth grade graduation cohort for high school accountability.

iii. Students enrolled in transitional ninth grade shall receive remediation in any subjects in which they did not score at or above proficient, as determined by BESE. A plan outlining such remediation shall be included in the student's individual graduation plan.

iv. Students enrolled in transitional ninth grade shall have opportunities to take career and technical education courses and participate in any career training opportunities included in a high school career pathway developed by a consortium of LEAs, post-secondary colleges and universities, and local business and industry, and approved by the LDE.

v. Students enrolled in transitional ninth grade shall receive dropout prevention and mentoring services based on proven strategies to retain and graduate at-risk students. The LDE shall make available to LEAs a list of recommended strategies and technical assistance needed to offer students such services.

C. - 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 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:1271 (July 2015).

Chapter 7. High Stakes Testing Policy

§701. Promotion Standard

A. At the conclusion of the 2013-2014 school year, a student who is a first-time fourth or eighth grader must score at or above the basic achievement level on the English language arts or mathematics components of the LEAP and at or above the approaching basic achievement level on the other (hereafter referred to as the passing standard) to be promoted to the fifth or ninth grade, respectively.

1. LEAs may promote any first-time fourth grade student who did not receive sufficient instruction needed to achieve the passing standard on the transitional state assessment, but who has demonstrated readiness for fifth grade content through evidence of student learning, to the fifth grade. Each LEA shall include guidance in its local pupil progression plan outlining the evidence of student learning used to make such promotion decisions, including but not limited to performance on classroom assignments or benchmark assessments.

2. LEAs may promote any first-time eighth grade student who fails to achieve the passing standard to the transitional ninth grade, pursuant to requirements set forth in §503.B.1.c.

B. At the conclusion of the 2014-2015 and 2015-2016 school years, placement decisions for fourth and eighth grade students shall be made according to local pupil progression plans, which shall outline the evidence of student learning used to make promotion decisions. Such evidence shall include, but not be limited to, performance on classroom assignments or benchmark assessments.

C. At the conclusion of the 2016-2017 school year and beyond, a student who is a first-time fourth or eighth grader must score at or above the proficient achievement level, as determined by BESE, on the English language arts or mathematics component of the LEAP and at or above one achievement level below proficient, as determined by the state board (hereinafter referred to as the passing standard) to be promoted to the fifth or 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 36:2005 (September 2010), amended LR 40:765 (April 2014), LR 41:1272 (July 2015).

Shan N. Davis
Executive Director

1507#034

RULE

Board of Elementary and Secondary Education

Honorary Diplomas (LAC 28:I.1501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted the *Louisiana Administrative Code*, Title 28, Part I, Chapter 15, Honors and/or Special Recognitions, §1501, Honorary Diplomas. These revisions are in response to legislative resolutions from the years 2000 (HCR 24) and 2006 (SCR 9), which requested the board devise and implement a program to grant honorary high school diplomas to veterans who left high school prior to graduation to serve the United States in military conflicts around the world. Further, the revisions make clear that the rights and privileges attached to a regular high school diploma, or its equivalent, are not applicable to the honorary diploma issued to veterans meeting the requirements of this policy.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 15. Honors and/or Special Recognitions
§1501. Honorary Diplomas

A. The board may award an honorary diploma to qualifying students who left high school before graduating to serve in the United States Armed Forces during World War II, the Korean Conflict, or the Vietnam War.

1. Veterans shall meet the following criteria to be eligible for an honorary diploma.

a. The veteran left a public school located in Louisiana in order to serve in the United States Armed Forces during World War II, the Korean Conflict, or the Vietnam War.

b. The veteran would have graduated from a public school in Louisiana in the years ranging from 1941 to 1950, 1950 to 1955, or 1964 to 1974.

c. The veteran received an honorable discharge from the United States Armed Forces or was released from active duty because of a service related disability.

d. The veteran has not previously been awarded a Louisiana standard high school diploma, but may have passed a high school equivalency examination.

2. An honorary diploma may be awarded posthumously to the family of a deceased veteran.

3. An honorary diploma awarded to an eligible veteran shall not be considered a standard Louisiana high school diploma for the purposes of satisfying postsecondary admissions requirements and/or determining eligibility for postsecondary financial aid, including, but not limited to, the Taylor Opportunity Program for Students (TOPS) scholarship.

4. The rights and privileges attached to a standard high school diploma, or its equivalent, are not applicable to any honorary diplomas conferred upon veterans meeting the requirements outlined above.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1273 (July 2015).

Shan N. Davis
Executive Director

1507#035

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

2014 Annual Incorporation by Reference
Federal Air Quality Regulations
(LAC 33:III.507, 2160, 3003, 5116
5122, 5311, and 5901)(AQ352ft)

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.507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ352ft).

This Rule is identical to federal regulations found in 40 CFR part 51, appendix M, 40 CFR part 60, 40 CF.R part 61, 40 CFR part 63, 40 CFR part 68, 40 CFR part 70.6(a), and 40 CFR part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the *Louisiana Administrative Code* (LAC), Title 33, Part III, Air the following federal regulations included in the July 1, 2014 edition of the *Code of Federal Regulations* (CFR): 40 CFR parts 51, appendix M, 60, 61, 63, 68, 70.6(a) and 96. Any exception to the IBR is explicitly listed in the Rule. This Rule updates the references to July 1, 2014, for standard of performance for new stationary sources, 40 CFR part 60. The Rule also updates the references to July 1, 2014, for the national emission standards for hazardous air pollutants (NESHAP) and for NESHAP for source categories, 40 CFR parts 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current *Code of Federal Regulations*, July 1, 2014, must be adopted into the *Louisiana Administrative Code* (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. …

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2014. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015).

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, appendix M, July 1, 2014, are hereby incorporated by reference.

B. - C.2.b.iv. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2014, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR 41:1274 (July 2015).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at

40 CFR 61, July 1, 2014, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
* * *	

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:1274 (July 2015).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2014, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR 41:1275 (July 2015).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2014, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2014.

B. - C.6. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary,

Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015).

Herman Robinson, CPM
Executive Counsel

1507#052

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Distribution of Byproduct Material
(LAC 33:XV.102, 301, 304, 322, 324, 328, 361, 399, 460, 465, 499, 541, 731, and 1302)(RP058ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.102, 301, 304, 322, 324, 328, 361, 399, 460, 465, 499, 541, 731, and 1302 (Log #RP058ft).

This Rule is identical to federal regulations found in 10 CFR 20, 30, 31, 32, 34, 35, 40 and 70, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule has been promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes minor changes to the requirements for distribution of byproduct material, which was promulgated by the Nuclear Regulatory Commission (NRC) as RATS ID 2012-4. It also addresses changes required by 14 comments from the NRC regarding a previous rulemaking (RP055ft) and one comment from the NRC regarding RP056ft. This Rule updates the state regulations to be compatible with changes in the federal regulations.

The changes in the state regulations are category A, B, C, and H and S requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. 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 XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that Chapter.

* * *

Authorized Nuclear Pharmacist—a pharmacist who:

1. …

2. is identified as an authorized nuclear pharmacist on a departmental, licensing state, Nuclear Regulatory Commission, or agreement state specific license that authorizes medical use or the practice of nuclear pharmacy; or

3. is identified as an authorized nuclear pharmacist on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

4. is identified as an authorized nuclear pharmacist on a permit issued by a Nuclear Regulatory Commission master material licensee that authorizes medical use or the practice of nuclear pharmacy; or

5. is identified as an authorized nuclear pharmacist on a permit issued by a Nuclear Regulatory Commission master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

6. is identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

7. is designated as an authorized nuclear pharmacist in accordance with LAC 33:XV.328.J.2.d; or

8. meets the requirements specified in LAC 33:XV.763.K and M.

* * *

Byproduct Material—

1. - 4. …

5. any discrete source of naturally occurring radioactive material, other than source material that the U.S. Nuclear Regulatory Commission, in consultation with the administrator of the Environmental Protection Agency, the secretary of Energy, the secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and before, on, or after August 8, 2005, is extracted or converted after extraction for the use in a commercial, medical, or research activity.

* * *

Waste—those low-level radioactive wastes that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986; that is, radioactive waste:

1. not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11.e.(2) of the Atomic Energy Act (uranium or thorium tailings and waste) and Paragraphs 3, 4, and 5 in the definition of *byproduct material* of this Section; and

2. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December

2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:283 (February 2014), LR 40:1338 (July 2014), LR 40:1926 (October 2014), LR 41:1276 (July 2015).

Chapter 3. Licensing of Byproduct Material

§301. Purpose and Scope

A. This Chapter and Chapters 7, 13, and 15 provide for the licensing of radioactive material. No person shall manufacture, produce, receive, possess, use, transfer, own, or acquire byproduct material except as authorized in a specific or general license issued pursuant to this Chapter or as otherwise provided in these regulations.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, Legal Division, LR 41:1277 (July 2015).

Subchapter A. Exemptions

§304. Radioactive Material Other Than Source Material

A. - C.4.d. …

5. Certain Industrial Devices

a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.30, which license authorizes the initial transfer of the device for use under this Section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

b. Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under Subparagraph a of this Paragraph, shall apply for a license under 10 CFR 32.30 and for a certificate of registration in accordance with LAC 33:XV.361.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:283 (February 2014), LR 40:1339 (July 2014), LR 41:1277 (July 2015).

Subchapter C. General Licenses

§322. General Licenses: Radioactive Material Other Than Source Material

A. Reserved.

B. - B.3.a. …

b. not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to LAC 33:XV.465.F or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by another agreement state or the NRC;

B.3.c. - D.3.k. …

l. register, in accordance with the provisions in this Subparagraph, devices containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, 3.7 megabecquerels (0.1 millicurie) of radium-226, or 37 MBq (1 mCi) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described in this Subparagraph, represents a separate general licensee and requires a separate registration and fee:

D.3.l.i. - J.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May 2006), LR 33:448 (March 2007), LR 33:2177 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:284 (February 2014), LR 40:1340 (July 2014), LR 41:1277 (July 2015).

Subchapter D. Specific Licenses

§324. Filing Application for Specific License

A. - D.1.c. …

d. information on the PET drugs to be noncommercially transferred to members of its consortium, including the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and the storage of the radioactive drugs by medical use licensees.

D.2. - K. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1227 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005), LR 33:2178 (October 2007),

amended by the Office of the Secretary, Legal Division, LR 40:286 (February 2014), LR 41:1277 (July 2015).

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Byproduct Material

A. - D.1.e. …

f. The device has been registered in the sealed source and device registry.

2. - 4.g. …

E. Special Requirements for the Manufacture, Assembly, Repair, or Initial Transfer of Luminous Safety Devices for Use in Aircraft

1. An application for a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under LAC 33:XV.322.E, will be approved subject to the following conditions:

a. …

b. the applicant satisfies the requirements of 10 CFR 32.53, 32.54, 32.55, and 32.56 or their equivalent.

F. - I.1.a. …

b. the criteria of 10 CFR 32.61 and 32.62 are met.

J. - J.2.c. …

d. may designate a *pharmacist* as defined in LAC 33:XV.102 as an authorized nuclear pharmacist if:

J.2.d.i. - L.1.c. …

d. the source or device has been registered in the sealed source and device registry.

L.2. - M.4.g. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2401(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:286 (February 2014), LR 41:1278 (July 2015).

§361. Registration of Product Information

A. Any manufacturer or initial distributor of a sealed source or device containing a sealed source may submit a request to the department for evaluation of radiation safety information about its product and for its registration.

B. - C. …

D. The department normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the department formulates reasonable standards and criteria with the help of the manufacturer or distributor. The department shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property. LAC 33:XV.Chapter 3 includes: specific criteria that apply to certain exempt products; specific criteria applicable to certain generally licensed devices; and specific provisions that apply to certain specifically licensed items.

E. After completion of the evaluation, the department issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product, or concerning use under an exemption from licensing or general license as applicable for the category of certificate.

F. - F.2. …

G. Authority to manufacture or initially distribute a sealed source or device to specific licensees may be provided in the license without the issuance of a certificate of registration in the following cases:

1. calibration and reference sources containing no more than:

a. 37 MBq (1 mCi) for beta and/or gamma emitting radionuclides; or

b. 0.37 MBq (10 μCi) for alpha emitting radionuclides; or

2. the intended recipients are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in any form in the case of unregistered sources or, for registered sealed sources contained in unregistered devices, are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in unshielded form, as specified in their licenses; and

a. the intended recipients are licensed under LAC 33:XV.327 or comparable provisions of the U.S. Nuclear Regulatory Commission or an agreement state; or

b. the recipients are authorized for research and development; or

c. the sources and devices are to be built to the unique specifications of the particular recipient and contain no more than 740 GBq (20 Ci) of tritium or 7.4 GBq (200 mCi) of any other radionuclide.

H. After the certificate is issued, the department may conduct an additional review as it determines is necessary to ensure compliance with current regulatory standards. In conducting its review, the department will complete its evaluation in accordance with criteria specified in this Section. The department may request such additional information as it considers necessary to conduct its review and the certificate holder shall provide the information as requested.

I. Inactivation of Certificates of Registration of Sealed Sources and Devices

1. A certificate holder who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued by the department shall request inactivation of the registration certificate. Such a request shall be made to the Office of Environmental Compliance and must normally be made no later than two years after initial distribution of all of the source(s) or device(s) covered by the certificate has ceased. However, if the certificate holder determines that an initial transfer was in fact the last initial transfer more than two years after that transfer, the certificate holder shall request inactivation of

the certificate within 90 days of this determination and briefly describe the circumstances of the delay.

2. If a distribution license is to be terminated in accordance with LAC 33:XV.332, the licensee shall request inactivation of its registration certificates associated with that distribution license before the department will terminate the license. Such a request for inactivation of certificate(s) shall indicate that the license is being terminated and include the associated specific license number.

3. A specific license to manufacture or initially transfer a source or device covered only by an inactivated certificate no longer authorizes the licensee to initially transfer such sources or devices for use. Servicing of devices shall be in accordance with any conditions in the certificate, including in the case of an inactive certificate.

J. Serialization of Nationally Tracked Sources. Each licensee who manufactures a nationally tracked source after February 6, 2007, shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:1017 (June 2007), LR 33:2180 (October 2007), amended by the Office of the Secretary, Legal Division, LR 41:1278 (July 2015).

Subchapter Z. Appendices

§399. Schedules A and B, and Appendices A, B, C, D, E, F, and G

Schedule A. - Schedule A, Note 4. ....

* * *

Schedule B Exempt Quantities	
Byproduct Material	**Microcuries**
***	
Germanium 68 (Ge 68)	10
***	
Platinum 197 (Pt 197)	100
***	
Rubidium 81 (Rb 81)	10
***	

Footnotes to Schedule B - Appendix G. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007), LR 33:1017 (June 2007), LR 33:2181 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:288 (February 2014), LR 41:1279 (July 2015).

Chapter 4. Standards for Protection against Radiation

Subchapter H. Waste Disposal

§460. General Requirements

A. - A.3. …

4. as authorized in accordance with LAC 33:XV.461, 462, 463, 464, or 465.F.

B. - B.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 41:1279 (July 2015).

§465. Transfer for Disposal and Manifests

A. - D. …

E. Any licensee shipping byproduct material as defined in LAC 33:XV.102, *byproduct material*, 3, 4, and 5 intended for ultimate disposal at a licensed land disposal facility shall document the information required for the consignee and transfer this recorded manifest information to the intended consignee in accordance with the requirements specified in LAC 33:XV.499, Appendix D.

F. Licensed material as defined in LAC 33:XV.102.*byproduct material*, 3, 4, and 5 may be disposed of in accordance with LAC 33:XV.Chapter 13, even though it is not defined as low level radioactive waste. Therefore, any licensed byproduct material being disposed of or transferred for ultimate disposal at a facility licensed under LAC 33:XV.Chapter 13 shall meet the requirements of Subsections A-E of this Section. A licensee may dispose of *byproduct material*, as defined in LAC 33:XV.102, *byproduct material*, 3, 4, and 5, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 24:2096 (November 1998), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 41:1279 (July 2015).

Subchapter Z. Appendices

§499. Appendices A, B, C, D, E

A. - B, Table III. ...

* * *

List of Elements—Atomic Numbers		
Name	**Symbol**	**Number**
* * *		
Nitrogen	N	7
Osmium	Os	76
Oxygen	O	8
* * *		

* * *

C. - E. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:2183 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 40:1341 (July 2014), LR 41:1279 (July 2015).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter A. Equipment Control

§541. Locking of Sources of Radiation

A. Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked, with the key removed at all times for a keyed-lock, when not under the direct surveillance of a radiographer or a radiographer trainee except at permanent radiographic installations in accordance with LAC 33:XV.585. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

B. Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked, with the key removed at all times for a keyed-lock, when containing sealed sources, except when under the direct surveillance of a radiographer or radiographer trainee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001), LR 28:306 (February 2002), LR 30:1189 (June 2004), amended by the Office of the Secretary, Legal Division, LR 41:1280 (July 2015).

Chapter 7. Use of Radionuclides in the Healing Arts

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies

A. - H.1.d. …

I. A licensee may use the authorization under LAC 33:XV.324.D.1, Nuclear Regulatory Commission, or agreement state requirements to produce positron emission tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium. This does not relieve the licensee from complying with applicable FDA, other federal agencies, and agreement state requirements governing radioactive drugs.

J. Each licensee authorized under LAC 33:XV.324.D.1 to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

1. - 2. …

K. A licensee that is a pharmacy authorized under LAC 33:XV.324.D.1 to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual who prepares PET radioactive drugs shall be:

1. an *authorized nuclear pharmacist* as defined in LAC 33:XV.102 and meets the requirements of LAC 33:XV.763.K; or

2. an individual under the supervision of an *authorized nuclear pharmacist* as specified in LAC 33:XV.709.A or B.

L. A pharmacy that is authorized under LAC 33:XV.324.D.1 to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of LAC 33:XV.328.J.2.e.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:982 (June 2008), amended by the Office of the Secretary, Legal Division, LR 40:291 (February 2014), LR 41:1280 (July 2015).

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter A. General Provisions

§1302. Definitions

A. As used in this Chapter, the following definitions apply.

* * *

Waste—those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, that is radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11.e (2) of the Atomic Energy Act (uranium or thorium tailings and waste) and LAC 33:XV.102, *byproduct material*, 3, 4, and 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 23:1140 (September 1997), amended by the Office of the Secretary, Legal Division, LR 40:292 (February 2014), LR 41:1280 (July 2015).

Herman Robinson, CPM
Executive Counsel

1507#053

RULE

Office of the Governor
Division of Administration
Office of State Procurement

Procurement
(LAC 34:V.301, 303, 905, 1111, and Chapter 25)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Procurement has amended Chapters 3, 9, 11, and 25 of LAC 34:V, Procurement.

The amendment to LAC 34:V.301 is necessary to correct an inconsistency between the Rule as now written and governing law (see R.S. 39:1594).

The amendment to LAC 34:V.303 is necessary to be consistent with the provisions of R.S. 39:1594.

The amendment to LAC 34:V.905 is necessary to be consistent with the provisions of R.S. 39:1597.

The amendment to LAC 34:V.1111 is necessary to be consistent with the provisions of R.S. 39:1598.

The amendment to LAC 34:V.2506 is necessary to be consistent with the delegation powers of the state chief procurement officer found in R.S. 39:1566.

The amendment to LAC 34:V.2539 is necessary to make it consistent with R.S. 39:1672.

The amendment to LAC 34:V.2542 is necessary to make it consistent with current law and with LAC 34:V.905 and LAC 34:V.1111.

LAC 34:V.2545 has been amended as it is repetitive of the requirement already stated in R.S. 39:1595.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part V. Procurement

Chapter 3. Competitive Sealed Bidding

§301. Content of the Invitation for Bids [Formerly LAC 34:I.501]

A. Invitation for Bids

1. Purchases where the estimated cost is over $25,000 shall be advertised in accordance with R.S. 39:1594. All advertisements or written invitations for bids shall contain general descriptions of the classes of commodities on which bids are solicited and shall state:

a. the date and time when bids will be received, opened and publicly read;

b. the names and locations of the state agencies for which the purchases are to be made;

c. where and how specifications and bid forms may be obtained.

2. The invitation for bids shall be on the state's standard forms containing all pertinent information and shall be full and complete including specifications, quantities, units, packaging and number of containers to the case.

B. Content. The invitation for bids shall include the following:

1. the purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description; and

2. the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

C. Incorporation by Reference. The invitation for bids may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained.

D. Special Conditions. If any special conditions are to apply to a particular contract, they shall be included in the invitation for bid.

E. Types of Purchases. Purchases are made in two different ways.

1. *Open Market*—a purchase made other than under a schedule or term contract.

2. *Term Contracting*—a technique by which a source of supply is established for a specific period of time. Term contracts are usually based on indefinite quantities to be ordered "as needed," although such contracts can specify definite quantities with deliveries extended over the contract period.

F. Request for Proposals. In the event the state chooses to use the request for proposals method of procurement pursuant to R.S. 39:1595, the procurement shall be made in accordance with LAC 34:V. 2545.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1349 (July 2014), LR 40:2549 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015).

§303. Bidding Time [Formerly LAC 34:I.503]

A. Bidding time is the period of time between the date of distribution of the invitation for bids and the date set for opening of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. For bids over $25,000, a minimum of 10 days should be provided unless the chief procurement officer or his designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days, except as provided in R.S. 39:1598 and Chapter 11 of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1349 (July 2014), LR 40:2550 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015).

Chapter 9. Sole Source Procurement

§905. Conditions for Use of Sole Source Procurement [Formerly LAC 34:I.905]

A. Determination

1. The determination as to whether a procurement or a professional, personal, consulting, or social services contract award shall be made as a sole source shall be made by the state chief procurement officer, a chief procurement officer or either officer's designee upon sufficient factors and cause,

and shall be in the best interests of the state. Such determination shall be in writing. Such officer may specify the application of such determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

A.2. - B.3.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:331 (July 1982) amended LR 21:566 (June 1995), repromulgated LR 40:1356 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015).

Chapter 11. Emergency Procurement

§1111. Determination and Record of Emergency Procurement
[Formerly LAC 34:I.1111]

A. Determination. The procurement officer or the agency official responsible for procurement shall make a written determination stating the basis for any emergency procurement or award of a professional, personal, consulting or social services contract, and for the selection of a particular contractor. Such determination shall be sent promptly to the state chief procurement officer or chief procurement officer as appropriate for approval or rejection.

B. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), repromulgated LR 21:566 (June 1995), LR 40:1357 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015).

Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts

Subchapter A. General Provisions

§2506. Contracts Approved Under Delegation of Authority
[Formerly LAC 34:V.106]

A. The state chief procurement officer may grant delegations of authority to an agency director to approve contracts without the necessity of forwarding a copy to the Office of State Procurement. The agency shall maintain a file for all such delegated contracts. This file shall be available for inspection by the Office of State Procurement upon request.

B. The using agency shall submit a quarterly report to the Office of State Procurement. This report shall contain a listing of all delegated contracts to include: the name of contractor, amount of contract, specific nature of services rendered, date of contract, and total dollar amount of all delegated contracts entered into by the using agency for that quarter. If no such contracts have been entered into during this period, a report shall still be submitted notifying the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:179 (April 1981), amended LR 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1068 (November 1985), LR 17:265 (March 1991), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2561 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015).

§2539. Suspension, Debarment and Reinstatement
[Formerly LAC 34:V.139]

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the state chief procurement officer shall have authority to suspend or debar an individual or business for cause from consideration for a contract, in accordance with the provisions of R.S. 39:1672.

B. Reinstatement

1. If the commissioner finds that the state chief procurement officer was in error, then he may reinstate said individual or business. If the commissioner affirms the decision of the state chief procurement officer that decision is final and conclusive.

2. The state chief procurement officer, upon request of a debarred individual or business shall review the requesting debarred contractor's file on an annual basis, and may reinstate said contractor for future consideration if he believes the circumstances warrant reinstatement and it would be in the best interest of the state. A list of debarred individuals and businesses shall be kept by the Office of State Procurement and made available upon request to state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 8:594 (November 1982), amended LR 10:458 (June 1984), LR 11:1071 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015).

Subchapter B. Contracts Let Via a Request for Proposals Process

§2542. Source Selection Methods
[Formerly LAC 34:V.142]

A. Pursuant to R.S. 39:1620-1621, professional or personal services contracts for any amount, consulting services contracts less than $50,000 for a twelve-month period, and social services contracts meeting one of the requirements of R.S. 39:1619(B) may be awarded without competitive negotiation or bidding; therefore this Section shall be applicable to consulting services contracts for $50,000 or more and which are not exempted by R.S. 39:1621, and social services contracts for $249,999 or more which are not exempted by R.S. 39:1619(B).

1. Emergency Awards. An emergency award of a personal, professional, consulting, or social services contract shall be made in accordance with LAC 34:V.1111.

2. Sole Source Awards. A sole source award of a personal, professional, consulting, or social services contract shall be made in accordance with LAC 34:V.905.

3. Record. A record of emergency procurements and sole source procurements shall be maintained by the Office of State Procurement, and shall contain:

a. contractor's name;

b. the amount of the contract;

c. services to be rendered;

d. reason for the emergency or sole source procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:179 (April 1981), amended LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1071 (November 1985), LR 13:655 (November 1987), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015).

§2545. Request for Proposals
[Formerly LAC 34:V.145]

A. Unless otherwise stated, this Section applies to all requests for proposals (RFP) solicitations issued under any provision of chapter 17, title 39, of the *Louisiana Revised Statutes*.

1. In addition to the requirements of R.S. 39:1595 and these regulations, a request for proposals should:

a. specifically define the task and desired results of project;

b. identify agency liaison personnel and resources available to the contractor;

c. state approximately when the contractor can begin the work, plus an estimate of the time necessary to accomplish the work, if applicable;

d. specify applicable procedures concerning billing, documentation requirements, progress reports, and final reports, if applicable;

e. specify that a minimum of two copies of the proposal be submitted;

f. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating the proposals' responsiveness to the RFP;

g. require potential contractors to include the following information in their proposals:

i. a description of the firm's qualifications to include a specific list of personnel to be used in the services and their qualifications (at least list the number and the qualifications of each position). However, a résumé will be required on each of the key personnel. Additionally for consulting services, the contractor must stipulate that these personnel will not be removed from the contract without prior approval of the using agency;

ii. a list of the agencies with names and contact persons, for whom similar work has been done;

iii. if applicable, the length of time needed for the services, broken down by phases, if phasing is necessary;

iv. the proposed methodology for accomplishing the services with a precise statement of what the state will receive as an end product of the services (this is sometimes referred to as the technical section of the proposal);

v. for consulting services only, an itemized cost statement showing various classes of man-hours at appropriate rate, delineated by phases, if phasing is used, and an itemized listing of all other expenses or fees that are expected to be paid by the state and a complete breakdown of consultant overhead rate, if applicable;

vi. for social services only, a detailed budget or other cost breakdown as may be required by the using agency and/or the federal government.

2. The final selection of a contractor shall be made in accordance with the selection criteria established in the RFP. However, no contract may be enforced against the state until approval of the contract has been granted by the Office of State Procurement. When a final selection has been made, but prior to notice of award, the contract file containing that information outlined in Paragraphs 1-2 above, including the request for proposals, along with a selection memorandum justifying the final selection shall be sent to the Office of State Procurement for final concurrence. The selection memorandum shall include, but not be limited to:

a. a list of criteria used along with the weight assigned each criteria;

b. scores of each proposal considered in each of the categories listed above along with overall scores of each proposal considered;

c. a narrative justifying selection.

3. After final negotiation and execution, the contract shall be sent to the Office of State Procurement for final review and approval.

4. Right to Protest. Any person who is aggrieved in connection with the request for proposal or award may protest and appeal pursuant to the provisions of R.S. 39:1671, 1681, 1683, 1691, and 1692.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1283 (July 2015).

Jan B. Cassidy
Assistant Commissioner

1507#001

RULE

Department of Health and Hospitals
Board of Dentistry

Continuing Education Requirement Exemptions
(LAC 46:XXXIII.1607)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.1607.

The Louisiana state Board of Dentistry has amended LAC 46:XXXIII.1607 to allow a dentist or dental hygienist to be exempt from continuing education requirements during the

first calendar year in which they obtained their licensure and in the year thereafter also allowing them to obtain half of the mandated continuing education requirements.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 16. Continuing Education Requirements
§1607. Exemptions

A. - A.2. ...

3. dentists in the first calendar year of their initial licensure;

4. dental hygienists in the first calendar year of their initial licensure.

B. …

C. Dentists renewing their licenses in the calendar year following their initial licensure must complete one-half of the continuing education required under §1611.

D. Dental hygienists renewing their licenses in the calendar year following their initial licensure must complete one-half of the continuing education required under §1613.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 41:1284 (July 2015).

Arthur Hickham, Jr.
Executive Director

1507#107

RULE

Department of Health and Hospitals
Board of Dentistry

Expanded Duty Dental Assistant
(LAC 46:XXXIII.504 and 508)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has adopted LAC 46:XXXIII.504 and amended 508.

The Louisiana state Board of Dentistry has adopted LAC 46:XXXIII.504 to clarify the requirements needed in order to become an expanded duty dental assistant. In addition, the board has amended LAC 46:XXXIII.508 because the legislature changed the citation on the statute referenced in the Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 5. Dental Assistants
§504. Confirmation of Expanded Duty Dental Assistant Certification

A. Unless exempt in accordance with §501.C, no assistant may perform expanded duties unless the assistant has first registered with the board and received a certificate confirmation of the assistant's expanded duty dental assistant status from the board.

B. In order to receive a certificate confirmation, the assistant must provide to the board all of the following:

1. evidence of successful completion of a board approved EDDA course;

2. evidence of current approved BLS certification;

3. evidence of successful completion of a board approved radiology course;

4. completed certificate confirmation application; and

5. the appropriate fee listed in Chapter 4 of these rules.

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 41:1284 (July 2015).

§508. Dental Assistants Graduating from Dental Assisting Schools Approved by the Commission on Dental Accreditation

A. Since the inception of R.S. 37:751(A)(7) defining an expanded duty dental assistant as a graduate from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, many changes in technology and dental materials have taken place, and in the interest of the protection of the public those persons seeking expanded duty dental assistant status and who have graduated from CODA accredited schools, must comply with the following:

1. - 2. ...

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 28:1778 (August 2002), amended LR 41:1284 (July 2015).

Arthur Hickham, Jr.
Executive Director

1507#108

RULE

Department of Health and Hospitals
Board of Dentistry

Reinstatement of Licenses Revoked for Non-Payment, Temporary Licenses, and Guidelines for Returning to Active Practice (LAC 46:XXXIII.Chapter 1)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.114, 120, and 124.

The Louisiana state Board of Dentistry has amended LAC 46:XXXIII.114 to allow a dentist or hygienist who has allowed his or her license to lapse in Louisiana but is still practicing in another state to have their license reinstated rather than having to apply for a new license. The board has amended LAC 46:XXXIII.120 because there was an error in the Rule. In addition, the board has amended LAC 46:XXXIII.124 to clarify when remedial steps are required after a licensee has left the practice for some time.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 1. General Provisions
§114. Reinstatement of Licenses Revoked for Non-Payment

A. The board may reinstate a Louisiana dental or dental hygiene license which was revoked due to non-renewal provided that the former licensee:

1. has submitted the fully completed required application form with all supporting data and certification of competency of good character;

2. has paid all required fees;

3. has, if deemed necessary by the board, appeared for a personal interview before the board;

4. possesses a current certificate in the American Heart Association cardiopulmonary resuscitation health care provider course, the American Red Cross professional rescue course, or their equivalent; and

5. has complied with applicable provisions of §124.

B. Regardless of the former licensee's compliance with the foregoing and the requirements listed in §124, the board may refuse to reinstate a license for any of the following:

1. any material misrepresentation or omission in the application; or

2. any disciplinary action or sanctions taken against an applicant's license in another jurisdiction; or

3. any reason listed in R.S. 37:775, 37:776, or 37:777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 25:514 (March 1999), LR 41:1285 (July 2015).

§120. Temporary Licenses

A. Temporary Licenses for Dentists. In order to protect the public and to avoid abuses of the exemption granted in R.S. 37:752(8), the board will not issue temporary dental licenses except to those applicants applying for a license by credentials under the provisions of R.S. 37:3651 upon their application and payment of applicable fees.

B. Temporary Licenses for Dental Hygienists. The board may issue temporary dental hygiene licenses to the following applicants:

1. ...

2. those dental hygiene license by credentials applicants who are applying under the provisions of R.S. 37:3651 upon their application and payment of applicable fees.

C. Under the provisions of R.S. 37:3651, military trained dentists or hygienists applying for a license by credentials who do not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

1. - 5. ...

D. Under the provisions of R.S. 37:3651, the spouse of an active duty military member applying for a license by credentials who does not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

D.1. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007), LR 33:2652 (December 2007), LR 38:2771 (November 2012), LR 39:2279 (August 2013), LR 41:1285 (July 2015).

§124. Guidelines for Returning to Active Practice

A. - E. ...

F. When a licensee has not practiced for one year or greater, an evaluation by a dentist and/or specialist appointed by the board shall be conducted. Varying degrees of remediation shall be determined by the board on a case-by-case basis. Areas of specific concern for general dentists are:

F.1. - I. ...

J. When a license has been inactive or a licensee has not practiced for one year or greater, the licensee will be required to successfully pass an examination administered by the board testing the licensee's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same. In addition, within 120 days of the reinstatement of a license or the licensee's return to active practice, the licensee will be required to complete one-half of the continuing education requirement for relicensure as described in §§1611 and 1613. The continuing education courses shall include a board-approved cardiopulmonary resuscitation course.

K. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:511 (March 1999), amended LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 37:3515 (December 2011), repromulgated LR 38:355 (February 2012), amended LR 38:2771 (November 2012), LR 41:1285 (July 2015).

Arthur Hickham, Jr.
Executive Director

1507#109

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

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

1. - 5. ...

6. children who receive foster care or adoption assistance (Title IV-E), or who are in foster care or who are otherwise in an out-of-home placement;

7. Title XXI SCHIP populations, including:

a. LaCHIP Phases 1-4; and

b. LaCHIP Affordable Plan (Phase 5);

8. recipients who receive both Medicare and Medicaid benefits; and

9. recipients enrolled in the LaMOMS program.

B. ...

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:

1. recipients enrolled in the Medicare beneficiary programs (QMB, SLMB, QDWI and QI-1);

2. adults who reside in an intermediate care facility for persons with intellectual disabilities (ICF/ID);

3. recipients of refugee cash assistance;

4. recipients enrolled in the Regular Medically Needy Program;

5. recipients enrolled in the Tuberculosis Infected Individual Program;

6. recipients who receive emergency services only coverage;

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

8. recipients enrolled in the Low Income Subsidy Program;

9. participants in the TAKE CHARGE Family Planning Waiver; and

10. recipients enrolled in the LaMOMS Program.

11. - 12. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015).

Kathy H. Kliebert
Secretary

1507#092

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 Waiver
Electronic Visit Verification
(LAC 50:XXI.11531)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXI.11531 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 9. Children's Choice
Chapter 115. Provider Participation Requirements
Subchapter B. Provider Requirements
§11531. Electronic Visit Verification

A. Effective for dates of service on or after August 1, 2015, Children's Choice Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Children's Choice Waiver provider manual.

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

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

Office for Citizens with Developmental Disabilities, LR 41:1286 (July 2015).

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

1507#093

RULE

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Electronic Visit Verification
(LAC 50:XXI.Chapter 142)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXI.Chapter 142 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 11. New Opportunities Waiver
Chapter 142. Provider Participation Requirements
§14201. Electronic Visit Verification

A. Effective for dates of service on or after August 1, 2015, New Opportunities Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the NOW provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:1287 (July 2015).

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

1507#094

RULE

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

Home and Community-Based Services Waivers
Residential Options Waiver
Electronic Visit Verification
(LAC 50:XXI.16705)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXI.16705 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 13. Residential Options Waiver
Chapter 167. Provider Participation
§16705. Electronic Visit Verification

A. Effective for dates of service on or after July 1, 2015, Residential Options Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ROW provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:1287 (July 2015).

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

1507#095

RULE

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

Home and Community-Based Services Waivers
Supports Waiver
Electronic Visit Verification
(LAC 50:XXI.5903)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXI.5903 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 5. Supports Waiver
Chapter 59. Provider Participation
§5903. Electronic Visit Verification

A. Effective for dates of service on or after August 1, 2015, Supports Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Supports Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:1288 (July 2015).

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

1507#096

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Home Health Program
Rehabilitation Services
Reimbursement Rate Increase
(LAC 50:XIII.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed the provisions of the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services, and adopted LAC 50:XIII.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This 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 XIII. Home Health
Subpart 1. Home Health Services
Chapter 9. Rehabilitation Services
§901. General Provisions

A. The Medicaid Program provides coverage for rehabilitation services rendered in the Home Health Program. Home Health rehabilitation services include:

1. physical therapy;
2. occupational therapy; and
3. speech/language therapy.

B. All home health rehabilitation services must be medically necessary and prior authorized.

AUTHORITY NOTE: 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 41:1288 (July 2015).

§903. Reserved.

§905. Reimbursement Methodology

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech/language therapy covered under the Home Health Program.

B. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

C. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in the Home Health 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 41:1288 (July 2015).

Kathy H. Kliebert
Secretary

1507#097

RULE

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

Nursing Facilities—Standards for Payment
Level of Care Determinations
(LAC 50:II.10156)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:II.10156 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 Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Medical Assistance Program
Subpart 3. Standards for Payment
Chapter 101. Standards for Payment for Nursing Facilities
Subchapter G. Levels of Care
§10156. Level of Care Pathways

A. - B. ...

C. The level of care pathways elicit specific information, within a specified look-back period, regarding the individual's:

1. ...

2. receipt of assistance with activities of daily living (ADL);

C.3. - E.2.m. ...

F. Physician Involvement Pathway

1. - 2. ...

3. In order for an individual to be approved under the physician involvement pathway, the individual must have 1 day of doctor visits and at least 4 new order changes within the last 14 days or:

a. at least 2 days of doctor visits and at least 2 new order changes within the last 14 days; and

F.3.b. - I.1.d. ...

2. In order for an individual to be approved under the behavior pathway, the individual must have:

a. exhibited any one of the following behaviors four to six days of the screening tool's seven-day look-back period, but less than daily:

i. - ii. ...

iii. physically abusive;

iv. socially inappropriate or disruptive; or

b. exhibited any one of the following behaviors daily during the screening tool's seven-day look-back period:

i. - iii. ...

iv. socially inappropriate or disruptive; or

c. experienced delusions or hallucinations within the screening tool's seven-day look-back period that impacted his/her ability to live independently in the community; or

d. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:

i. wandering;

ii. verbally abusive;

iii. physically abusive;

iv. socially inappropriate or disruptive; or

e. experienced delusions or hallucinations within the assessment tool's three-day look-back period that impacted his/her ability to live independently in the community.

J. - J.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 and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:1289 (July 2015).

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

1507#098

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Immunizations
Reimbursement Methodology
(LAC 50:IX.8305 and 8505)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:IX.8305 and §8505 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 7. Immunizations
Chapter 83. Children's Immunizations
§8305. Reimbursement Methodology

A. - C.3.a. ...

D. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine

administration services shall be reimbursed at payment rates consistent with the methodologies that apply to such services and physicians under part B of Title XVIII of the Social Security Act (Medicare) and the Vaccines for Children (VFC) Program.

1. The following vaccine service codes, when covered by the Medicaid Program and provided under the VFC Program, shall be reimbursed at an increased rate:

a. 90471, 90472, 90473 and 90474; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For vaccine administration services provided under the Vaccines for Children Program in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. regional maximum administration fee; or

b. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405 as approved by the Centers for Medicare and Medicaid Services.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

AUTHORITY NOTE: 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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1289 (July 2015).

Chapter 85. Adult Immunizations

§8505. Reimbursement Methodology

A. - B.3.a. …

C. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under part B of title XVIII of the Social Security Act (Medicare).

1. The following vaccine service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

a. 90471, 90472, 90473 and 90474; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For vaccine administration services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405 as approved by the Centers for Medicare and Medicaid Services; or

b. provider's actual billed charges for the service.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

AUTHORITY NOTE: 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 Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1290 (July 2015).

Kathy H. Kliebert
Secretary

1507#099

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Physician Services
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services
§15113. Reimbursement Methodology

A. - I.3. …

J. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain physician services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under part B of title XVIII of the Social Security Act (Medicare).

1. The following physician service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

a. evaluation and management codes 99201 through 99499; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by or under the personal supervision of a physician, either a doctor of osteopathy or a medical doctor, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and who also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist in family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For primary care services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare Part B fee schedule rate in calendar years 2013 or 2014 that is applicable to the place of service and reflects the mean value over all parishes (counties) of the rate for each of the specified or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405. If there is no applicable rate established by Medicare, the reimbursement shall be the rate specified in a fee schedule established and announced by the Centers for Medicare and Medicaid Services (CMS); or

b. provider's actual billed charge for the service.

4. The department shall make payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

K. - 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, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015).

Kathy H. Kliebert
Secretary

1507#100

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

State Children's Health Insurance Program
LaCHIP Affordable Plan Benefits Administration
(LAC 50:III.Chapter 205)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XXI of the Social Security Act. This 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
Chapter205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V
§20501. General Provisions

A. …

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

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

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1291 (July 2015).

§20505. Covered Services

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

1. - 8. …

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

9.a. - 10. …

11. nursing care services;

a. Repealed.

12. …

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

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

b. …

14. outpatient substance abuse treatment services:

a. all services must be pre-certified;

b. …

15. case management services;

a. Repealed.

16. - 16.a. …

17. hospice care:

a. Repealed.

18. medical transportation; and

a. Repealed.

19. …

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1292 (July 2015).

§20507. Cost Sharing

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

B. The following cost-sharing criteria shall apply.

1. - 1.a. …

2. - 3.e. Repealed.

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

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1292 (July 2015).

Kathy H. Kliebert
Secretary

1507#101

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

State Children's Health Insurance Program
Modified Adjusted Gross Income
(LAC 50:III.20103)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:III.20103 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 201. Louisiana Children's Health Insurance Program (LaCHIP)—Phases 1-3

§20103. Eligibility Criteria

A. - A.1. ...

2. are from families with income at or below 217 percent of the federal poverty level; and

A.3. - D.1.f. ...

E. Effective December 31, 2013 eligibility for LaCHIP shall be determined by modified adjusted gross income (MAGI) methodology in accordance with section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and section 36B(d)(2)(B) of the *Internal Revenue Code*.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1292 (July 2015).

Kathy H. Kliebert
Secretary

1507#102

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Therapeutic Group Homes
Licensing Standards
(LAC 48:I.Chapter 62)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.Chapter 62 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2009. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing
Chapter 62. Therapeutic Group Homes
Subchapter A. General Provisions
§6203. Definitions

Active Treatment—implementation of a professionally developed and supervised comprehensive treatment plan that is developed no later than seven days after admission and designed to achieve the client's discharge from inpatient status within the shortest practicable time. To be considered active treatment, the services must contribute to the achievement of the goals listed in the comprehensive treatment plan. Tutoring, attending school, and transportation are not considered active treatment. Recreational activities can be considered active treatment when such activities are community based, structured and integrated within the surrounding community.

* * *

Therapeutic Group Home (TGH)—a facility that provides community-based residential services to clients under the age of 21 in a home-like setting of no greater than 10 beds under the supervision and oversight of a psychiatrist or psychologist.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:402 (February 2012), amended LR 41:1293 (July 2015).

Subchapter B. Licensing
§6213. Changes in Licensee Information or Personnel

A. - C.1. ...

2. A TGH that is under provisional licensure, license revocation, or denial of license renewal may not undergo a CHOW.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:405 (February 2012), amended LR 41:1293 (July 2015).

§6219. Licensing Surveys

A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. ...
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:406 (February 2012), amended LR 41:1293 (July 2015).

§6221. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration results. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:1293 (July 2015).

§6223. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:1293 (July 2015).

§6225. Cessation of Business

A. Except as provided in §6295 of this Chapter, a license shall be immediately null and void if a TGH ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the TGH stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the TGH shall:

1. give 30 days' advance written notice to:
   a. HSS;
   b. the prescribing physician; and
   c. the parent(s) or legal guardian or legal representative of each client; and
2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the TGH shall submit a written plan for the disposition of client medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a TGH fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a TGH for a period of two years.

H. Once the TGH has ceased doing business, the TGH shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:407 (February 2012), amended LR 41:1293 (July 2015).

§6227. Denial of License, Revocation of License, or Denial of License Renewal

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A TGH license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. - 15. ...

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

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

18. failure to maintain accreditation, or for a new TGH that has applied for accreditation, the failure to obtain accreditation.

19. Repealed.

E. If a TGH license is revoked or renewal is denied or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such TGH may be prohibited from opening, managing, directing, operating, or owning another TGH for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:408 (February 2012), amended LR 41:1294 (July 2015).

§6229. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The TGH provider shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

B.2. - D. ...

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal, or license revocation, the DAL or its successor shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the HSS within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 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 Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the DAL or its successor shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:409 (February 2012), amended LR 41:1294 (July 2015).

Subchapter D. Provider Responsibilities

§6247. Staffing Requirements

A. - C.2. ...

3. A ratio of not less than one staff to five clients is maintained at all times; however, two staff must be on duty at all times with at least one being direct care staff when there is a client present.

D. - D.3. ...

4. Therapist. Each therapist shall be available at least three hours per week for individual and group therapy and two hours per month for family therapy.

5. Direct Care Staff. The ratio of direct care staff to clients served shall be 1:5 with a minimum of two staff on duty per shift for a 10 bed capacity. This ratio may need to be increased based on the assessed level of acuity of the youth or if treatment interventions are delivered in the community and offsite.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:413 (February 2012), amended LR 41:1294 (July 2015).

§6249. Personnel Qualifications and Responsibilities

A. - A.1.a.ii.(c). ...

b. A supervising practitioner's responsibilities shall include, but are not limited to:

i. reviewing the referral PTA and completing an initial diagnostic assessment at admission or within 72 hours of admission and prior to service delivery;

ii. - iv. ...

v. at least every 28 days or more often as necessary, providing:

1.b.v.(a). - 6.b.viii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:414 (February 2012), amended LR 41:1294 (July 2015).

Subchapter F. Services

§6267. Comprehensive Treatment Plan

A. Within seven days of admission, a comprehensive treatment plan shall be developed by the established multidisciplinary team of staff providing services for the client. Each treatment team member shall sign and indicate their attendance and involvement in the treatment team meeting. The treatment team review shall be directed and supervised by the supervising practitioner at a minimum of every 28 days.

B. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:418 (February 2012), amended LR 41:1295 (July 2015).

§6269. Client Services

A. - A.4. ...

B. The TGH is required to provide at least 16 hours of active treatment per week to each client. This treatment shall be provided and/or monitored by qualified staff.

C. The TGH shall have a written plan for insuring that a range of daily indoor and outdoor recreational and leisure opportunities are provided for clients. Such opportunities shall be based on both the individual interests and needs of the client and the composition of the living group.

C.1. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:419 (February 2012), amended LR 41:1295 (July 2015).

Kathy H. Kliebert
Secretary

1507#103

RULE

Department of Insurance
Office of the Commissioner

Regulation 31—Holding Company
(LAC 37:XIII.Chapter 1)

Under the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11, and R.S. 22:691.27, the Department of Insurance has amended Regulation 31. The purpose of the amendment is to update the current provisions of Regulation 31 to maintain consistency with the National Association of Insurance Commissioner's (NAIC) model regulation regarding the Insurance Holding Company System Regulatory Law.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 1. Regulation 31—Holding Company

§101. Purpose

A. The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of Act 294 of the 2012 Regular Legislative Session to be comprised of R.S. 22:691.1-691.27 of the *Insurance Code*. The information called for by this regulation is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015).

§103. Severability Clause

A. If any provision of this regulation, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015).

§105. Definitions

A. For purposes of this Rule, the definitions detailed below shall apply.

Executive Officer—chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

The Act—the Insurance Holding Company System Regulatory Act (R.S. 22:691.1-691.27).

Ultimate Controlling Person—that person who is not controlled by any other person.

B. Unless the context otherwise requires, other terms found in this regulation and in R.S. 22:691.2 are used as defined in the Act. Other nomenclature or terminology is according to the *Insurance Code*, or industry usage if not defined by the code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015).

§107. Subsidiaries of Domestic Insurers

A. The authority to invest in subsidiaries under R.S. 22:691.3(B) is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the *Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015).

§109. Acquisition of Control—Statement Filing

A. A person required to file a statement pursuant to R.S. 22:691.4 shall furnish the required information on form A, hereby made a part of this regulation. Such person shall also furnish the required information on form E, hereby made a part of this regulation and described in §141 of this regulation.

B. A person required to file a notice of change of control due to testate or intestate inheritance or by appointment as a succession representative shall submit the following to the commissioner within thirty days of the testate or intestate or appointment as a succession representative.

1. A copy of the order appointing the succession representative, a copy of the judgment of possession transferring ownership, and any other such succession or inheritance documents as the commissioner may require.

2. Such biographical information as the commissioner may require.

3. Such other information as the commissioner may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§111. Amendments to Form A

A. The applicant shall promptly advise the commissioner of any changes in the information so furnished on form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§113. Acquisition of Section 691.4(A)(4) Insurers

A. If the person being acquired is deemed to be a domestic insurer solely because of the provisions of R.S. 22:691.4(A)(4), the name of the domestic insurer on the cover page should be indicated as follows:

1. "ABC Insurance Company, a subsidiary of XYZ Holding Company".

B. Where an R.S. 22:691.4(A)(4) insurer is being acquired, references to "the insurer" contained in form A shall refer to both the domestic subsidiary insurer and the person being acquired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§114. Pre-Acquisition Notification

A. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to R.S. 22:691.4(A)(1), that person shall file a pre-acquisition notification form, form E, which was developed pursuant to R.S. 22:691.5(C)(1).

B. Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to R.S. 22:691.5, that person shall file a pre-acquisition notification form, form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of R.S. 22:691.5 as set forth in R.S. 22:691.5(B)(2).

C. In addition to the information required by form E, the commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§115. Annual Registration of Insurers—Statement Filing

A. An insurer required to file an annual registration statement pursuant of R.S. 22:691.6 shall furnish the required information on form B, hereby made a part of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§117. Summary of Registration—Statement Filing

A. An insurer required to file an annual registration statement pursuant to R.S. 22:691.6 is also required to furnish information required on form C, hereby made a part of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§119. Amendments to Form B

A. An amendment to form B shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement.

B. Amendments shall be filed in the form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page "Amendment Number (insert number) to form B for (insert year)" and shall indicate the date of the change and not the date of the original filings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§121. Alternative and Consolidated Registrations

A. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under R.S. 22:691.6. A registration statement may include information not required

by the Act regarding any insurer in the insurance holding company system, even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

1. the statement or report contains substantially similar information required to be furnished on form B; and

2. the filing insurer is the principal insurance company in the insurance holding company system.

B. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact, and an insurer filing a registration statement or report in lieu of form B on behalf of an affiliated insurer shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurer holding company system.

C. With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under §121.A.

D. Any insurer may take advantage of the provisions of R.S. 22:691.6(H) or (I) without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration or the public good.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015).

§123. Disclaimers and Termination of Registration

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

1. the number of authorized, issued, and outstanding voting securities of the subject;

2. with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

3. all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

4. a statement explaining why such person should not be considered to control the subject.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), LR 41:1297 (July 2015).

§125. Extraordinary Dividends and Other Distributions

A. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

1. the amount of the proposed dividend;

2. the date established for payment of the dividend;

3. a statement as to whether the dividend is to be in cash or other property, and if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for evaluation;

4. a copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

a. the amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

b. surplus as regards policyholders (total capital and surplus) as of the thirty-first day of December next preceding;

c. if the insurer is a life insurer, the net gain from operations for the 12-month period ending the thirty-first day of December next preceding;

d. if the insurer is not a life insurer, the net income less realized capitalized gains for the 12-month period ending the thirty-first day of December next preceding and the two preceding 12-month periods; and

e. if the insurer is not a life insurer, the dividends paid to stockholders, excluding distributions of the insurers own securities in the preceding two calendar years;

5. a balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

6. a brief statement as to the effect of the proposed dividend upon the insurers surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

B. Subject to R.S. 22:691.7(B), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof, including the same information required by Paragraph A.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1297 (July 2015).

§126. Enterprise Risk Report

A. The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to R.S. 22:691.6(L) shall furnish the required information on form F, hereby made a part of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:1297 (July 2015).

§127. Adequacy of Surplus

A. The factors set forth in R.S. 22:691.7(D) are not intended to be an exhaustive list. In determining the adequacy and the reasonableness of an insurer's surplus, no single factor is necessarily controlling. The commissioner

will instead consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company, and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1297 (July 2015).

§129. Transactions Subject to Prior Notice—Notice Filing

A. An insurer required to give notice of a proposed transaction pursuant to R.S. 22:691.7 shall furnish the required information on form D, hereby made a part of this regulation.

B. Agreements for cost sharing services and management services shall at a minimum and as applicable:

1. identify the person providing services and the nature of such services;

2. set forth the methods to allocate costs;

3. require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

4. prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

5. state that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

6. define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

7. specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;

8. state that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

9. include standards for termination of the agreement with and without cause;

10. include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

11. specify that, if the insurer is placed in receivership or seized by the commissioner under R.S. 22:2001-2044 of the *Insurance Code*:

a. all of the rights of the insurer under the agreement extend to the receiver or commissioner; and

b. all books and records will immediately be made available to the receiver or the commissioner, and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;

12. specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to R.S. 22:2001-2044 of the *Insurance Code*; and

13. specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under R.S. 22:2001-2044 of the *Insurance Code*, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1298 (July 2015).

§131. Instructions for Forms A, B, C, D, E and F

A. General Requirements

1. Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by R.S. 22:691.4, 691.5, 691.6, and 691.7. They are not intended to be blank forms which are to be filled in. These statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

2. A complete copy of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with commissioner by U.S. Mail, or as provided by LAC 37:XI.Chapter 9, addressed to: Insurance Commissioner of the State of Louisiana, P.O. Box 94214, Baton Rouge, LA 70804-9214, Attention: (Chief Examiner). The statement shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

3. Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

4. If an applicant requests a hearing on a consolidated basis under R.S. 22:691.4(E)(3), in addition to filing the form A with the commissioner, the applicant shall file a copy of form A with the National Association of Insurance Commissioners in electronic form.

B. Forms—Incorporation by Reference, Summaries, and Omissions

1. Information required by an item of form A, form B, form D, form E or form F may be incorporated by reference in answer or partial answer to any other item. Information

contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of form A, form B, form D, form E or form F provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three years need not to be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

2. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

C. Forms—Information Unknown or Unavailable and Extension of Time to Furnish

1. Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

a. the person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

b. the person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

2. If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the commissioner as a separate document:

a. identifying the information, document, or report in question;

b. stating why the filing thereof at the time required is impractical; and

c. requesting an extension of time for filing the information, document, or report to a specified date. The request for extension shall be deemed granted unless the commissioner within 30 days after receipt thereof enters an order denying the request.

D. Forms—Additional Information and Exhibits. In addition to the information expressly required to be included in forms A, B, C, D, E or F there shall be added such other material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to forms A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change Number (insert number) to" and shall indicate the date of the change and not the date of the original filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1298 (July 2015).

§133. Form A—Acquisition of Control or Merger with a Domestic Insurer

STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

_____
Name of Domestic Insurer
By

_____
Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

_____
(State of domicile of insurer being acquired)

Dated: _____, 20 _____

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:

_____
_____
_____
_____
_____

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Provide a brief but informative description of the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1 percent of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings, and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Present principal business activity, occupation or employment, including position and office held, and the name, principal business, and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices, or employment during the last five years, giving the starting and ending dates of each and the name, principal business, and address of any business corporation or other organization in which each such occupation, position, office, or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension, or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE, AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source, and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes, and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge or consolidate it with any person or persons, or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates, or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements, or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss, or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates, or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant and the ultimate controlling person shall be accompanied by the certificate of an independent certified public accountant to the effect that such statements present fairly the financial position of the applicant and the ultimate controlling person and the results of their operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer who is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the

insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

Other than the applicant, an ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent certified public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent certified public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting materials relating thereto, any proposed employment, consultation, advisory, or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or §131.A and 131.C of Regulation 31.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within 15 days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of R.S. 22:691.4, _____ has caused this application to be duly signed on its behalf in theCity/Parish of _____ and state of _____ on the _____ day of_____, 20 _____.

(SEAL) _____

Name of Applicant

BY _____

(Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION

The undersigned deposes and says that (s) he has duly executed the attached application dated _____ , 20 _____, for and on behalf of _____that (s)he is the _____ of such

(Name of Applicant) (Title of Officer)

company that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature)_____

(Type or print name beneath)_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.4 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1299 (July 2015).

§135. Form B—Annual Registration Statement

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the
State of _____

By

_____

(Name of Registrant)

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date: _____, 20 _____

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:

_____

_____

_____

_____

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date of which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding (insert amount). The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

(a) Name

(b) Home office address

(c) Principal executive office address

(d) The organizational structure of the person, (i.e., corporation, partnership, individual, trust, etc.)

(e) The principal business of the person

(f) The name and address of any person who holds or owns 10 percent or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings, and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force; and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

(1) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

(2) purchases, sales, or exchanges of assets;

(3) transactions not in the ordinary course of business;

(4) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into the ordinary course of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;

(5) all management agreements, service contracts, and all cost-sharing arrangements;

(6) reinsurance agreements;

(7) dividends and other distributions to shareholders;

(8) consolidated tax allocation agreements; and

(9) any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate for a loan made to any member of the insurance holding company system.

Sales, purchases, exchanges, loan or extensions of credit, investments. or guarantees involving the amounts specified in R.S. 22:691.6(D) or less of the Registrant's admitted assets as of the thirty-first day of December next preceding, or such transactions as set forth below, shall not be deemed material.

Sales, purchases, exchanges, loan or extensions of credit, investments or guarantees of less than $25,000 shall not be deemed material even if such transaction would otherwise be deemed material under the provisions of R.S.22:691.6(D).Additionally, transactions that fall between $25,000 and $250,000 shall not be deemed material unless such transaction involves .0075 of the admitted assets of the insurer as of the thirty-first day of December next preceding.

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the Registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership, or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENT AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the holding company system as of the end of the person's latest fiscal year. Financial statements are required for an ultimate controlling person who is an individual as well as for a corporation or other type of business organization. If a holding company system includes more than one ultimate controlling person, annual financial statements are required for each ultimate controlling person.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent certified public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its

operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent certified public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent certified public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or §131.A and §131.C.

ITEM 9. FORM C REQUIRED

A Form C, Number Summary of Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of R.S. 22:691.6, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City/Parish of _____, and State of _____on the _____day of _____, 20 _____.

(SEAL)_____
(Name of Registrant)

_____
By (Name) (Title)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____; that (s)he is the _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature)_____

(Type or print name beneath)_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.6 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1301 (July 2015).

§137. Form C—Registration Statement Summary

SUMMARY OF REGISTRATION STATEMENT
Filed with the Insurance Department of the
State of_____

By

_____
(Name of Registrant)

On Behalf of the Following Insurance Companies

Name Address

_____
_____
_____
_____

Date: _____, 20_____.

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____
_____
_____

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of' 10 percent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of RS. 22:691.6, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City/Parish of _____and the State of _____on the _____ day of _____, 20_____.

(SEAL) _____
(Name of Applicant)

By _____
(Name) (Title)

Attest:
_____
(Signature of Officer)
_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated _____ 20_____, for and on behalf of _____(Name of Company); that (s)he is the _____(Title of Officer) of such company and that (s) he is authorized to execute and file such instrument. Deponent further says that (s) he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) _____
(Type or print name beneath)_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.6 and 22:691.11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1303 (July 2015).

§139. Form D—Prior Notice of a Transaction

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of _____

By
_____
(Name of Registrant)

On Behalf of Following Insurance Companies

Name Address

_____
_____
_____
_____

Date: _____, 20_____.

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning Statement Should Be Addressed:

_____
_____
_____

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

(a) Name.
(b) Home office address.
(c) Principal executive office address.
(d) The organizational structure, (i.e. corporation, partnership, individual, trust, etc.).
(e) A description of the nature of the parties' business operations.
(f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
(g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

(a) A statement as to whether notice is being given under R.S. 22:691.7(A)(2)(a)(b)(c)(d) or (e).
(b) A statement of the nature of the transaction.
(c) A statement of how the transaction meets the 'fair and reasonable' standard of R.S. 22:691.7(A)(1)(a); and
(d) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OF INVESTMENTS

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for the evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee, or other arrangement, state the time period during which the investment, guarantee, or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders or, (b) in the case of life insurers, 3 percent of the insurer's admitted assets, each as of the thirty-first day of December next preceding.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property, or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders or, with respect to life insurers, 3 percent of the insurer's admitted assets, each as of the thirty-first of December next preceding.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described in R.S. 22:691.7(A)(2)(c)(ii), or a reinsurance pooling agreement or modification thereto as described in R.S. 22:691.7(A)(2)(c)(i), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5 percent of the insurer's surplus as regards policyholders, as of the thirty-first day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING ARRANGEMENTS

For management and service agreements, furnish:

(a) A brief description of the managerial responsibilities, or services to be performed;

(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

(a) A brief description of the purpose of the agreement;

(b) A description of the period of time during which the agreement is to be in effect;

(c) A brief description of each party's expenses or costs covered by the agreement;

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and

(g) A statement regarding compliance with the *NAIC Accounting Practices and Procedure Manual* regarding expense allocation.

ITEM 7. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of R.S. 22:691.7, _____ has caused this notice to be duly signed on its behalf in the City/Parish of _____and State of _____on the _____day of _____, 20_____.

(SEAL) _____
(Name of Applicant)

By _____
(Name) (Title)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, 20_____, for and on behalf of _____; that (s)he is the _____of such company
(Name of Applicant) (Title of Officer)
and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature)_____

(Type or print name beneath) _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.5 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1304 (July 2015).

§141. Form E—Pre-Acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer Doing Business in this State or by a Domestic Insurer

_____
(Name of Applicant)

_____
(Name of Other Person Involved in Merger or Acquisition)

Filed with the Insurance Department of _____
Dated: _____, 20_____.

Name, Title, Address and Telephone Number of person Completing This Statement:
_____
_____
_____
_____

ITEM 1. NAME AND ADDRESS

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION

State the nature and purpose of the proposed merger or acquisition.

ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in R.S. 22:691.5(D). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.5 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1306 (July 2015).

§143. Form F—Enterprise Risk Report

Filed with the Insurance Department of the
State of _____

By

_____
(Name of Registrant/Applicant)

On Behalf of/Related to Following Insurance Companies

Name Address
_____
_____
_____
_____

Date: _____, 20 _____

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:
_____
_____
_____
_____

ITEM 1. ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in R.S. 22:691.2(4), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

(a) Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

(b) Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;

(c) Any changes of shareholders of the insurance holding company system exceeding ten percent or more of voting securities;

(d) Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;

(e) Business plan of the insurance holding company system and summarized strategies for next 12 months;

(f) Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;

(g) Identification of insurance holding company system capital resources and material distribution patterns;

(h) Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);

(i) Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

(j) Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.6 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1306 (July 2015).

Denise Brignac
Deputy Commissioner

1507#027

RULE

Department of Public Safety and Corrections
Corrections Services

Offender Incentive Pay and Other Wage Compensation
(LAC 22:I.331)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of Section 331, Offender Incentive Pay and Other Wage Compensation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult Services
§331. Offender Incentive Pay and Other Wage Compensation

A. Purpose—to state the secretary's policy regarding payment of incentive wages and other wage compensations to offenders.

B. Applicability—deputy secretary, undersecretary, chief of operations, director of prison enterprises, regional wardens and wardens. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that compensation shall be paid, in accordance with the provisions of this regulation, to all offenders who have served at least three years of their sentence in the physical custody of the department and who have performed satisfactory work in the job assignment in which they have been classified (except those offenders who opt to receive good time in lieu of incentive wages in accordance with R.S. 15:571.3).

D. Procedures

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is not eligible to earn good time at any rate shall serve three years from the date of reception before becoming eligible to earn incentive pay.

a. Grandfather Clause. The provisions of this section are applicable to offenders received at the reception and diagnostic centers on or after September 20, 2008. Offenders received at a reception and diagnostic center prior to this date shall be subject to the waiting period previously in effect for this regulation. Offenders who are currently receiving incentive pay will not be affected and will continue to be eligible to receive incentive pay as they did on the effective date of this regulation but shall be subject to the provisions of Paragraph D.3 as it applies to job changes.

2. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is eligible to earn good time at any rate shall not be eligible to earn incentive wages.

a. Grandfather Clause. Offenders currently earning good time at a rate of three days for every 17 days served in accordance with Act 1099 of the 1995 Regular Session who are also earning incentive pay shall be allowed to continue to earn incentive pay at authorized rates.

3. Once eligible to earn incentive pay, each offender shall initially be paid an "introductory pay level" of two cents per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the institution. In the event of a change in an offender's job assignment or custody status, the offender's rate of compensation shall automatically be adjusted to the lowest pay rate of the assigned job. If a change in job assignment is not for disciplinary reasons, the Warden may approve the offender to be paid at the same rate as the previous job

assignment and the rate of compensation shall not be automatically adjusted to the lowest pay rate of the new job assignment.

a. Grandfather Clause. Offenders earning incentive pay at any rate, prior to the effective date of this regulation, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position will receive the adjusted lower rate.

4. An offender may receive a raise in his hourly pay rate of no greater than $0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution, except as provided in Paragraphs D.12, 13, 14, 15 and 16 below.

5. No offender shall earn more than 80 hours in a two-week period unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution.

a. Exception. Offenders assigned to job duties at the governor's mansion will not be limited to 80 hours bi-weekly.

6. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the "introductory pay level" of two cents per hour for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six-month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.

7. A series of pay ranges and a standardized list of job titles shall be established by the director of prison enterprises and approved by the secretary or designee. The institutions shall be assigned limits on the total amount of incentive wages paid in certain pay ranges. These limits shall be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises shall issue reports detailing each institution's status with regard to their limits on a quarterly basis. Offender banking shall monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate regional warden, the director of prison enterprises and the warden of the institution.

a. The regional wardens shall work closely with the director of prison enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

b. Exception. Offenders who work in prison enterprises job titles will not affect an institution's pay range percentage limits.

8. Incentive wages shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

9. All offenders classified in limited duty status and who are eligible to earn incentive wages shall earn at a rate of no more than $0.04 per hour. This excludes offenders classified as regular duty with restrictions or those with a temporary limited duty status.

10. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive wages shall earn at the rate of $0.02 per hour.

11. All offenders assigned to educational or vocational programs who are eligible to earn incentive wages shall be paid at the rate of $0.04 per hour.

a. Exception. Due to the importance of the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program shall earn incentive wages at the following rates:

i. freshmen: $0.14 per hour;

ii. sophomores: $0.16 per hour;

iii. juniors: $0.18 per hour;

iv. Seniors: $0.20 per hour.

b. Upon completion of any educational or vocational program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

12. Offenders assigned to prison enterprises industrial, agricultural, service or other prison enterprises jobs may be compensated at a rate up to $0.40 per hour. The pay range for these jobs shall be established by the director of prison enterprises and approved by the secretary or designee.

13. Offender tutors who achieve certification from the Corrections Education Association (CEA) or an NCCER or other industry based certification may be paid, on a graduating scale, up to $1 per hour while working as a tutor in the area of certification. Certified tutors may earn $0.75 per hour during the first 12 months after certification and may receive an annual raise of $0.10 per hour, up to a maximum of $1 per hour.

14. In accordance with established procedures, Paragraph D.4, offenders who are participating in the American Sign Language Interpreting Program shall earn incentive wages at the following rates:

a. sign language student I: $0.20 per hour;

b. sign language interpreter student/tutor: $0.50 per hour;

c. sign language interpreter/certified tutor: $0.75 per hour-may be increased to a maximum of $1 per hour.

15. In accordance with established procedures, offenders working as a mentor/tutor or minister/tutor shall earn incentive wages at the following rates:

a. lead certified mentor/tutor: $0.75 per hour;

b. certified mentor/tutor: $0.65 per hour;

c. peer minister/tutor: $0.50 per hour;

d. mentor/tutor: $0.50 per hour.

16. Offenders who are assigned to work as counsel substitutes shall be paid in accordance with their education and years of legal experience. Incentive wages shall be earned at the following rates:

a. legal worker 1: $0.25 per hour:

i. must be enrolled in paralegal classes or have less than five years legal work experience;

b. legal worker 2: $0.50 per hour:

i. must have attained paralegal certificate or degree and have less than three years legal work experience or have five years legal work experience and no paralegal certificate or degree;

c. legal worker 3: $0.80 per hour:

i. must have attained paralegal certificate or degree and have a minimum of three years legal work experience or have 10 years legal work experience and no paralegal certificate or degree;

d. counsel substitutes may receive an annual raise of five cents per hour, up to a maximum of $1 per hour.

17. Offenders who are eligible to earn incentive wages shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

18. For the purpose of this regulation, income earned from a private sector/prison industry enhancement (PS/PIE) program or a work release program is not "incentive pay." Therefore, offenders employed in any of these programs may receive good time in accordance with the law. The director of prison enterprises shall establish record-keeping procedures relating to wages earned by offenders employed in a PS/PIE program that include all mandatory deductions from offender wages, other deductions such as child support or garnishment and the distribution of net offender wages to offender banking.

E. Sources of Funding

1. The division of prison enterprises shall pay all incentive wages.

2. Offenders who are employed in a certified PS/PIE program shall be paid by the private business that employs them or by prison enterprises depending upon the type of PS/PIE program that is in operation, in accordance with the terms stated in the employment agreement.

3. Offenders who are participating in a transitional work program shall be paid by the private business that employs them, in accordance with the terms outlined in the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1927 (September 2008), amended LR 36:531 (March 2010), LR 38:1253 (May 2012), LR 40:2600 (December 2014), LR 41:1307 (July 2015).

James M. LeBlanc
Secretary

1507#060

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational Reef Sites and Restriction of Oyster Harvest
(LAC 76:VII.537)

Pursuant to Act 84 of the 2012 Regular Legislative Session and in an effort to enhance inshore fisheries habitat and recreational fishing opportunities, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission has adopted the following administrative Rule to designate and set aside certain water bottoms as recreational reefs and to restrict all harvest of oysters thereon.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oyster
§537. Establishment of Recreational Reef Sites and Restriction of Oyster Harvest

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites:

1. California Point-Plaquemines Parish
   a. 29 degrees 29 minutes 08.86 seconds N
      89 degrees 29 minutes 11.15 seconds W
   b. 29 degrees 29 minutes 08.63 seconds N
      89 degrees 28 minutes 54.46 seconds W
   c. 29 degrees 28 minutes 54.02 seconds N
      89 degrees 28 minutes 54.73 seconds W
   d. 29 degrees 28 minutes 54.25 seconds N
      89 degrees 29 minutes 11.42 seconds W
2. Bay Ronquille-Plaquemines Parish
   a. 29 degrees 19 minutes 52.76 seconds N
      89 degrees 50 minutes 34.16 seconds W
   b. 29 degrees 20 minutes 02.34 seconds N
      89 degrees 50 minutes 24.99 seconds W
   c. 29 degrees 20 minutes 01.34 seconds N
      89 degrees 50 minutes 40.21 seconds W
   d. 29 degrees 20 minutes 09.09 seconds N
      89 degrees 50 minutes 44.75 seconds W
3. St. Tammany (east)-St. Tammany Parish
   a. 30 degrees 13 minutes 48.36 seconds N
      89 degrees 57 minutes 15.24 seconds W
   b. 30 degrees 13 minutes 48.36 seconds N
      89 degrees 56 minutes 27.24 seconds W
   c. 30 degrees 13 minutes 06.36 seconds N
      89 degrees 56 minutes 27.24 seconds W
   d. 30 degrees 13 minutes 06.36 seconds N
      89 degrees 57 minutes 15.24 seconds W
4. St. Tammany (west)-St. Tammany Parish
   a. 30 degrees 18 minutes 41.88 seconds N
      90 degrees 09 minutes 24.00 seconds W
   b. 30 degrees 18 minutes 41.88 seconds N
      90 degrees 08 minutes 36.00 seconds W
   c. 30 degrees 17 minutes 59.88 seconds N
      90 degrees 08 minutes 36.00 seconds W
   d. 30 degrees 17 minutes 59.88 seconds N
      90 degrees 09 minutes 24.00 seconds W
5. St. Tammany Pier-St. Tammany Parish
   a. 30 degrees 12 minutes 28.34 seconds N
      89 degrees 47 minutes 54.03 seconds W
   b. 30 degrees 12 minutes 27.96 seconds N
      89 degrees 47 minutes 53.57 seconds W
   c. 30 degrees 12 minutes 20.66 seconds N
      89 degrees 48 minutes 01.30 seconds W
   d. 30 degrees 12 minutes 21.03 seconds N
      89 degrees 48 minutes 01.76 seconds W
6. North Shore-St. Tammany Parish
   a. 30 degrees 16 minutes 38.00 seconds N
      90 degrees 04 minutes 08.00 seconds W
   b. 30 degrees 16 minutes 38.00 seconds N
      90 degrees 03 minutes 21.00 seconds W

c. 30 degrees 15 minutes 58.00 seconds N
90 degrees 03 minutes 21.00 seconds W
d. 30 degrees 15 minutes 58.00 seconds N
90 degrees 04 minutes 08.00 seconds W

7. North Twin Span-St. Tammany Parish
a. 30 degrees 11 minutes 39.13 seconds N
89 degrees 50 minutes 15.54 seconds W
b. 30 degrees 11 minutes 39.13 seconds N
89 degrees 50 minutes 10.78 seconds W
c. 30 degrees 11 minutes 35.02 seconds N
89 degrees 50 minutes 10.78 seconds W
d. 30 degrees 11 minutes 35.02 seconds N
89 degrees 50 minutes 15.54 seconds W

8. South Twin Span-Orleans Parish
a. 30 degrees 10 minutes 12.23 seconds N
89 degrees 50 minutes 47.04 seconds W
b. 30 degrees 10 minutes 12.23 seconds N
89 degrees 50 minutes 42.27 seconds W
c. 30 degrees 10 minutes 08.11 seconds N
89 degrees 50 minutes 42.27 seconds W
d. 30 degrees 10 minutes 08.11 seconds N
89 degrees 50 minutes 47.04 seconds W

9. Orleans-Orleans Parish
a. 30 degrees 07 minutes 47.46 seconds N
90 degrees 05 minutes 05.70 seconds W
b. 30 degrees 07 minutes 47.46 seconds N
90 degrees 04 minutes 17.70 seconds W
c. 30 degrees 07 minutes 05.46 seconds N
90 degrees 04 minutes 17.70 seconds W
d. 30 degrees 07 minutes 05.46 seconds N
90 degrees 07 minutes 05.70 seconds W

10. Lake Front-Orleans Parish
a. 30 degrees 03 minutes 34.72 seconds N
89 degrees 59 minutes 40.25 seconds W
b. 30 degrees 03 minutes 35.72 seconds N
89 degrees 59 minutes 38.25 seconds W
c. 30 degrees 03 minutes 35.57 seconds N
89 degrees 59 minutes 38.05 seconds W
d. 30 degrees 03 minutes 30.22 seconds N
89 degrees 59 minutes 33.25 seconds W

11. South Shore-Jefferson Parish
a. 30 degrees 05 minutes 25.00 seconds N
90 degrees 12 minutes 42.00 seconds W
b. 30 degrees 05 minutes 25.00 seconds N
90 degrees 11 minutes 56.00 seconds W
c. 30 degrees 04 minutes 44.00 seconds N
90 degrees 11 minutes 56.00 seconds W
d. 30 degrees 04 minutes 44.00 seconds N
90 degrees 12 minutes 42.00 seconds W

12. Laketown-Jefferson Parish
a. 30 degrees 02 minutes 40.92 seconds N
90 degrees 14 minutes 23.11 seconds W
b. 30 degrees 02 minutes 38.30 seconds N
90 degrees 14 minutes 18.46 seconds W
c. 30 degrees 02 minutes 35.07 seconds N
90 degrees 14 minutes 20.28 seconds W
d. 30 degrees 02 minutes 37.69 seconds N
90 degrees 14 minutes 24.93 seconds W

13. Independence Island-Jefferson Parish
a. 29 degrees 18 minutes 34.48 seconds N
89 degrees 56 minutes 13.37 seconds W
b. 29 degrees 18 minutes 34.22 seconds N
89 degrees 55 minutes 48.52 seconds W
c. 29 degrees 18 minutes 24.32 seconds N
89 degrees 55 minutes 48.66 seconds W
d. 29 degrees 18 minutes 24.58 seconds N
89 degrees 56 minutes 13.51 seconds W

14. Bully Camp 1-Lafourche Parish
a. 29 degrees 27 minutes 30.08 seconds N
90 degrees 22 minutes 43.33 seconds W
b. 29 degrees 27 minutes 30.04 seconds N
90 degrees 22 minutes 38.63 seconds W
c. 29 degrees 27 minutes 25.92 seconds N
90 degrees 22 minutes 38.67 seconds W
d. 29 degrees 27 minutes 25.96 seconds N
90 degrees 22 minutes 43.37 seconds W

15. Bully Camp 2-Lafourche Parish
a. 29 degrees 27 minutes 44.08 seconds N
90 degrees 23 minutes 03.33 seconds W
b. 29 degrees 27 minutes 44.04 seconds N
90 degrees 22 minutes 58.63 seconds W
c. 29 degrees 27 minutes 39.92 seconds N
90 degrees 22 minutes 58.67 seconds W
d. 29 degrees 27 minutes 35.96 seconds N
90 degrees 23 minutes 03.37 seconds W

16. St. Charles-St. Charles Parish
a. 30 degrees 08 minutes 26.10 seconds N
90 degrees 19 minutes 26.28 seconds W
b. 30 degrees 08 minutes 26.10 seconds N
90 degrees 14 minutes 38.28 seconds W
c. 30 degrees 07 minutes 44.10 seconds N
90 degrees 18 minutes 38.28 seconds W
d. 30 degrees 07 minutes 44.10 seconds N
90 degrees 19 minutes 26.28 seconds W

17. Rabbit Island Reef-St. Mary Parish
a. 29 degrees 30 minutes 41.31 seconds N
91 degrees 34 minutes 00.39 seconds W
b. 29 degrees 30 minutes 41.34 seconds N
91 degrees 33 minutes 43.68 seconds W
c. 29 degrees 30 minutes 26.73 seconds N
91 degrees 33 minutes 43.65 seconds W
d. 20 degrees 30 minutes 26.70 seconds N
91 degrees 34 minutes 00.35 seconds W

18. Finfish Reef 1-Cameron Parish
a. 29 degrees 58 minutes 15.58 seconds N
93 degrees 18 minutes 12.25 seconds W
b. 29 degrees 58 minutes 15.83 seconds N
93 degrees 17 minutes 55.47 seconds W
c. 29 degrees 58 minutes 01.22 seconds N
93 degrees 17 minutes 55.19 seconds W
d. 29 degrees 58 minutes 00.97 seconds N
93 degrees 18 minutes 11.97 seconds W

19. Turner's Bay Island Reef-Cameron Parish
a. 30 degrees 03 minutes 20.56 seconds N
93 degrees 18 minutes 29.54 seconds W
b. 30 degrees 03 minutes 20.11 seconds N
93 degrees 18 minutes 26.51 seconds W
c. 30 degrees 03 minutes 18.54 seconds N
93 degrees 18 minutes 26.82 seconds W
d. 30 degrees 03 minutes 18.99 seconds N
93 degrees 18 minutes 29.85 seconds W

20. Oyster Reef 1-Cameron Parish
   a. 29 degrees 51 minutes 05.56 seconds N
      93 degrees 17 minutes 09.90 seconds W
   b. 29 degrees 51 minutes 05.81 seconds N
      93 degrees 16 minutes 53.14 seconds W
   c. 29 degrees 50 minutes 51.20 seconds N
      93 degrees 16 minutes 52.86 seconds N
   d. 29 degrees 50 minutes 50.96 seconds N
      93 degrees 17 minutes 09.62 seconds W
21. Oyster Reef 2-Cameron Parish
   a. 29 degrees 51 minutes 05.08 seconds N
      degrees 17 minutes 02.82 seconds W
   b. 29 degrees 51 minutes 05.33 seconds N
      degrees 16 minutes 46.06 seconds W
   c. 29 degrees 50 minutes 50.72 seconds N
      degrees 16 minutes 45.78 seconds W
   d. 29 degrees 50 minutes 50.47 seconds N
      93 degrees 17 minutes 02.54 seconds W
22. Oyster Reef 3-Cameron Parish
   a. 29 degrees 51 minutes 09.10 seconds N
      93 degrees 17 minutes 06.96 seconds W
   b. 29 degrees 51 minutes 09.35 seconds N
      93 degrees 16 minutes 50.20 seconds W
   c. 29 degrees 50 minutes 54.74 seconds N
      93 degrees 16 minutes 49.92 seconds W
   d. 29 degrees 50 minutes 54.49 seconds N
      93 degrees 17 minutes 06.68 seconds W
23. Sweet Lake-Cameron Parish
   a. 29 degrees 56 minutes 38.02 seconds N
      93 degrees 17 minutes 33.42 seconds W
   b. 29 degrees 56 minutes 38.27 seconds N
      93 degrees 17 minutes 16.65 seconds W
   c. 29 degrees 56 minutes 23.66 seconds N
      93 degrees 17 minutes 16.36 seconds W
   d. 29 degrees 56 minutes 23.41 seconds N
      93 degrees 17 minutes 33.14 seconds W
24. Bird Island-Terrebonne Parish
   a. 29 degrees 03 minutes 40.34 seconds N
      90 degrees 43 minutes 34.07 seconds W
   b. 29 degrees 03 minutes 40.26 seconds N
      90 degrees 43 minutes 17.44 seconds W
   c. 29 degrees 03 minutes 25.65 seconds N
      90 degrees 43 minutes 17.53 seconds W
   d. 29 degrees 03 minutes 25.73 seconds N
      90 degrees 43 minutes 34.16 seconds W
25. Bird Island II-Terrebonne Parish
   a. 29 degrees 03 minutes 41.97 seconds N
      90 degrees 43 minutes 29.63 seconds W
   b. 29 degrees 03 minutes 41.89 seconds N
      90 degrees 43 minutes 12.99 seconds W
   c. 29 degrees 03 minutes 27.28 seconds N
      90 degrees 43 minutes 13.08 seconds W
   d. 29 degrees 03 minutes 27.36 seconds N
      90 degrees 43 minutes 29.71 seconds W
26. Point Mast-Terrebonne Parish
   a. 29 degrees 06 minutes 34.01 seconds N
      90 degrees 38 minutes 16.87 seconds W
   b. 29 degrees 06 minutes 33.92 seconds N
      90 degrees 38 minutes 00.24 seconds W
   c. 29 degrees 06 minutes 19.31 seconds N
      90 degrees 38 minutes 00.34 seconds W
   d. 29 degrees 06 minutes 19.40 seconds N
      90 degrees 38 minutes 16.97 seconds W
27. Cypremort Point I-Iberia Parish
   a. 29 degrees 43 minutes 21.03 seconds N
      91 degrees 52 minutes 23.19 seconds W
   b. 29 degrees 43 minutes 21.04 seconds N
      91 degrees 52 minutes 20.82 seconds W
   c. 29 degrees 43 minutes 18.97 seconds N
      91 degrees 52 minutes 20.81 seconds W
   d. 29 degrees 43 minutes 18.96 seconds N
      91 degrees 52 minutes 23.18 seconds W
28. Cypremort Point II-Iberia Parish
   a. 29 degrees 44 minutes 26.95 seconds N
      91 degrees 52 minutes 54.25 seconds W
   b. 29 degrees 44 minutes 27.02 seconds N
      91 degrees 52 minutes 37.51 seconds W
   c. 29 degrees 44 minutes 12.41 seconds N
      91 degrees 52 minutes 37.43 seconds W
   d. 29 degrees 44 minutes 12.34 seconds N
      91 degrees 52 minutes 54.17 seconds W
29. Redfish Pointe (original)-Vermilion Parish
   a. 29 degrees 40 minutes 47.76 seconds N
      92 degrees 07 minutes 14.90 seconds W
   b. 29 degrees 40 minutes 47.86 seconds N
      92 degrees 06 minutes 58.17 seconds W
   c. 29 degrees 40 minutes 33.24 seconds N
      92 degrees 06 minutes 58.06 seconds W
   d. 29 degrees 40 minutes 33.14 seconds N
      92 degrees 07 minutes 14.79 seconds W
30. Redfish Pointe-Vermilion Parish
   a. 29 degrees 40 minutes 44.28 seconds N
      92 degrees 07 minutes 13.40 seconds W
   b. 29 degrees 40 minutes 44.38 seconds N
      92 degrees 06 minutes 56.67 seconds W
   c. 29 degrees 40 minutes 29.76 seconds N
      92 degrees 06 minutes 56.56 seconds W
   d. 29 degrees 40 minutes 29.66 seconds N
      92 degrees 07 minutes 13.29 seconds W
31. Prien Point-Vermilion Parish
   a. 29 degrees 39 minutes 45.53 seconds N
      92 degrees 08 minutes 05.36 seconds W
   b. 29 degrees 39 minutes 45.64 seconds N
      92 degrees 07 minutes 48.63 seconds W
   c. 29 degrees 39 minutes 31.02 seconds N
      92 degrees 07 minutes 48.52 seconds W
   d. 29 degrees 39 minutes 30.92 seconds N
      92 degrees 08 minutes 05.25 seconds W

B. No person shall harvest oysters from these recreational reefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015).

Pat Manuel
Chairman

1507#063

RULE

Workforce Commission
Rehabilitation Services

Business Enterprises Program Manual (LAC 67:VII.519)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), revised two parts of one Section of the Business Enterprise Program manual, as it relates to the Randolph-Sheppard Program. In §519.E.1.a, state licensing agency responsibilities for business enterprise operations, the term *priority* was changed to *extra consideration*. In §519.G.2.h, the agency provided clarification to the 30 calendar day time frame as it relates to convening an arbitration panel with the secretary. Amending the above Sections of the Business Enterprises Program policy manual allows for selection of the most qualified applicant for vacant facilities and establishes a time frame for requesting federal arbitration.

Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services
Chapter 5. Business Enterprises Program Manual
§519. State Licensing Agency Responsibilities for Business Enterprise Operations

A. - D. …

E. Assignment, Transfer of Licensed Managers. The SLA will carry out assignment and transfer of licensed managers through business enterprise vacancy announcements, eligibility verification, and establishing and convening a screening committee.

1. Business Enterprise Vacancy Announcement

a. The SLA will develop minimum qualifications specific to the characteristics of the vacant enterprise. These minimum qualification will establish the level of accomplishment expected of the applicant for the vacant business enterprise in each of the areas to be considered by the screening committee as described in §519.E.2. Extra consideration will be given to displaced licensed managers:

i. location, type of enterprise, and general description of operations;

ii. minimum qualifications;

iii. for a new enterprise, estimates of monthly net sales based upon potential patronage, with disclaimer this estimate is not a guarantee of sales; and

iv. application due date.

E.2. - F.6. …

G. Due Process. The SLA provides procedures for fair hearings of licensed managers' grievances. These procedures provide each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the BEP and are set forth in the following.

1. - 1.c. …

2. Full Evidentiary Hearings. Licensed managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprises Program. Evidentiary hearings shall be conducted as set forth in the following.

a. - g. …

h. If the licensed manager is dissatisfied with the decision, she or he may request that the secretary (USDE) convene an arbitration panel. The request for an arbitration panel must be made in writing within 30 calendar days from the date the licensed manager receives written notification of the full evidentiary hearing decision.

3. - 4.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:1312 (July 2015).

Curt Eysink
Executive Director

1507#074

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Examination Fees (LAC 7:XXIX.109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department") intends to amend its rules regarding examination fees for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist. R.S. 3:3806(A)(1) provides that the "examination fee for each examination for a professional license, except for landscape architects, shall be established by the commission by rule in an amount not to exceed $350. In determining the amount of the fee, the commission shall consider the costs incurred in obtaining, administering, and grading the examination." The current fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist is $50. However, the actual cost incurred by the department in obtaining, administering, and grading the examination is $114. The proposed Rule seeks to increase the fee for the examination to an amount commensurate with the cost thereof.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission
Chapter 1. Horticulture
§109. Examination Fees

A. - A.2. …

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist shall be $114.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3464 (December 2011), LR 40:758 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission LR 41:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Tad Hardy, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806, and must be received no later than 4 p.m. on the 4th day of September 2015. No preamble is available.

Mike Strain, DMV
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Examination Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change, which raises horticulture exam fees from $50 to $114, will have no associated costs or savings

to the state other than the cost of promulgation for FY 16. Pursuant to LA Revised Statute 3:3806, the horticulture commission has the authority to increase examination fees for all professions provided the fee does not exceed $350.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to generate an additional $35,840 in revenue per year under the proposed rule. This amount, which is based upon an average of 560 horticulture exams given annually, will allow the department to cover its costs in obtaining, administering and grading the examinations. Due to most horticulture exams being taken prior to the proposed rule's effective date, the full projected increase in annual revenues as a result of the proposed rule's implementation will likely not be realized until FY 17, with projected additional revenues totaling $26,880 in FY 16. The current cost paid by an individual to take the exam is $50. The proposed rule increases the cost paid by an individual to take the exam to $114, which is the actual cost incurred by the department in obtaining, administering, and grading the examinations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only anticipated cost associated with the proposed rule is the fee increase of $64 from $50 to $114 for persons wishing to take horticulture exams. For reference, LDAF administers an average of 560 horticulture exams per year.

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.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1507#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures

Weights and Measures; Petroleum Products
(LAC 7:XXXV.109, 127, 301, 321, 327 and 347)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Agro-Consumer Services, Division of Weights and Measures, intends to amend LAC 7:XXXV.109, 127, 301, 321, 327 and 347. The proposed amendment to LAC 7:XXXV.109 adds a "minisack" as an additional unit of measurement for unshucked oysters. The proposed amendments to LAC 7:XXXV.127 clarify the process for registration and inspection of taxicab meters and remove a previously published "NOTE" from the regulation. The proposed amendments to LAC 7:LXXXV.301, 321 and 327 are intended to include biomass-based diesel and biomass-based diesel blend fuel within the regulations on petroleum products and also sets forth certain labeling requirements for biomass-based diesel. The proposed amendment to LAC 7:XXXV.347 clarifies the possible methods of disposition of nonconforming fuel and requires the responsible party to notify the department regarding whether the nonconforming product was disposed of, re-refined, or blended for resale.

Title 7
AGRICULTURE AND ANIMALS
Part XXXV. Agro-Consumer Services
Chapter 1. Weights and Measures
§109. Oysters-Method of Sale

A. Oysters Unshucked. The standards used for unshucked oysters are a barrel containing 3 bushels, a sack containing 1 1/2 bushels or a 1 1/2 bushel wire hamper containing 3225.63 cubic inches or a minisack containing 1/2 bushel or 1/2 bushel wire hamper containing 1075.21 cubic inches.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4631, R.S. 3:4613 and R.S. 3:4608 (formerly R.S. 55:72, R.S. 55:11 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended April 1972, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993), LR 41:

§127. Registration

A. - H. …

I. Each application for annual registration shall be accompanied by payment of the required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. This Subsection shall not apply to the registration of taxicab meters.

J. Taxicab meters shall be registered annually with the division. Each registration shall be valid for one year from the date of issuance. Taxi meters may only be registered with the division upon completion of an inspection of the taxi meter by the department and payment of the required registration fee. The inspection period for taxicab meters for registration purposes shall occur from January 1 through June 30 each year. After June 30, inspections for registration purposes will be done by appointment only.

1. If a taxicab operates in a municipality or parish which requires a local inspection, the inspection required under this Part shall be completed no later than the month in which the taxicab's parish, municipal, or airport inspection is due.

2. Taxicab meters inspected after June 30 will be charged a late fee of $25 unless the late inspection is due to a meter being new, repaired, replaced, or being placed in a different vehicle.

K. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

L. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

M. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

N. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

O. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

P. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

NOTE. Repealed.

Q. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

* * *

Biodiesel Blend—a blend of diesel fuel and biodiesel suitable for use as a fuel in compression ignition engines.

Biomass-Based Diesel—a non-ester renewable diesel fuel produced from non-petroleum renewable resources, including biomass, plant oils, animal fats, microbial oils, and agricultural or municipal wastes, that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under 42 U.S.C. 7545 and conforms to the most recent revision of the appropriate ASTM specification. It is a renewable fuel that has lifecycle greenhouse gas emissions that are at least 50 percent less than the baseline lifecycle greenhouse gas emissions, is registered as a motor vehicle fuel under 40 CFR 79, and is either a transportation fuel (ASTM D975), heating oil (ASTM D396), or jet fuel (ASTM D1655).

Biomass-Based Diesel Blend—a blend of diesel fuel and biomass-based diesel that conforms to ASTM D975 and is suitable for use as a fuel in compression ignition engines.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:28 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2548 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 41:

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, E85 and E100 fuel ethanol, biodiesel, biomass-based diesel, biomass-based diesel blend, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain Antiknock Index or ASTM grade shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of this Subchapter.

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:31 (January 2005), amended LR 41:

§327. Biodiesel and Biomass-Based Diesel

A. A biodiesel or biomass-based diesel blend containing more than 5 percent of a biodiesel or biomass-based diesel by volume shall be identified by the term "biodiesel blend" or “biomass-based diesel blend.” A blend containing 5 percent or less of a biodiesel or biomass-based diesel by volume shall not be required to be identified by the term "biodiesel blend" or “biomass-based diesel blend.”

B. Each dispenser of biodiesel or biomass-based diesel blends containing more than 5 percent but no more than 20 percent of a biodiesel or biomass-based diesel shall be labeled with either the capital letter B (biodiesel) or BBD (biomass-based diesel) followed by the numerical value representing the volume percentage of biodiesel or biomass-based diesel fuel and ending with "biodiesel blend" or “biomass-based diesel blend” (i.e., B10 biodiesel blend; B20 biodiesel blend, BBD20 biomass-based diesel blend), or the phrase "biodiesel blend between 5 percent and 20 percent" or “biomass-based diesel blend between 5 percent and 20 percent” or similar words.

1. Each label shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position.

2. The size, color and lettering shall conform to the requirements of 16 CFR 306.12. Biodiesel uses blue letters in the black band at the top and black letters in a blue background at the bottom. Biomass-based diesel uses orange letters in the black band at the top and black letters in an orange background on the bottom.

3. For blends that contain more than 20 percent biodiesel or biomass-based diesel, the label must state the blend percentage and follow the color scheme above.

C. The distributor of a biodiesel or biomass-based diesel blended fuel that contains more than 5 percent of a biodiesel or biomass-based diesel by volume shall, at the time of delivery, provide the retailer with a written statement, whether on an invoice, bill of lading, or shipping paper, or other document, of the volume by percent of biodiesel or biomass-based diesel in the fuel. The retailer shall keep this information as part of his records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 41:

§347. Nonconforming Product

A. - B. …

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location.

D. Once a stop sale order has been issued on a product, whether on the rack, in transport, or in retail, the disposition of the nonconforming product shall be communicated to the commissioner on a form provided by the department. The responsible party and driver shall both sign the form. For purposes of this Subsection, the responsible party shall be the distributor if the condemned product is on the rack or in transport and shall be the station owner or his designee if the condemned product is in retail. The responsible party will contact the department inspector to retrieve the signed form during normal business hours. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

E. The following methods are approved for non-conforming products:

1. the nonconforming product may be returned to the refinery for re-refining;

2. the nonconforming product may be disposed of by environmentally acceptable means; or

3. the nonconforming product may be blended out to remove the contaminating substances in an effort to make the product conform to specification. The blended product shall not be offered for sale again until tested and approved by the department.

F. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 41:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;

2. the authority and rights of persons regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Dr. Steve Sessums, Director of the Division of Weights and Measures, Department of Agriculture and Forestry, Agro-Consumer Services, 5825 Florida Blvd., Suite 5000, Baton Rouge, LA 70806, and must be received no later than 4 p.m. on the 4th day of September 2015. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Weights and Measures; Petroleum Products

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes to Rule 347 will have a nominal fiscal impact associated with printing forms for gas station owners or their designee to report the disposition and course of action for nonconforming products, as well as re-inspection and re-testing costs associated with releasing fuel back to retail.

The proposed changes to Rules 109, 127, 301, 321, and 327 have no anticipated fiscal impact. The proposed change to Rule 109 defines the measurement for a "minisack" of oysters. The proposed changes to Rule 127 provide relative to registration of taxicabs. The proposed changes to Rules 301, 321, and 327 add new definitions, language, and labeling requirements for biomass-based diesel and biomass-based diesel fuel blends.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated fiscal impact to revenue collections as a result of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the amendment to Rule 109 will have any cost to directly affected persons. Costs may be incurred by oystermen if they voluntarily choose to purchase new sacks or baskets to reflect the additional measurement unit of a "minisack." It is not anticipated that the amendment to Rule 127 will have a cost or benefit to directly affected persons or non-governmental groups. The amendments to Rules 301, 321 or 327 may result in a cost to gas stations associated with selling biomass-based diesel, because the stations will incur costs associated with printing labels for the new type(s) of fuel based upon federal regulations. The amendment to Rule 347 may result in costs to gas station owners or their designee because they will now have to fill out a form to inform the department of the method of disposition of nonconforming fuels, as well as incur costs associated with re-refining, disposing of, or blending out nonconforming products.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact to competition and employment as a result of the proposed rule changes.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1507#049	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Forestry

Stumpage; Seedlings; Indian Creek Recreation Area; Landowner Assistance; Reforestation
(LAC 7:XXXIX.101, 105, 107, 301, 501, 701, 1001, 1307, and 1321)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Forestry, intends to amend LAC 7:XXIX.101, 105, 107, 501, 701, 1001, 1307, and 1321 and repeal Section 301. Sections 101, 105, and 107 are being amended in response to Act No. 185 of the 2013 Regular Session of the Louisiana Legislature ("Act 185"). Act 195 amended R.S. 47:633 and now provides that the Louisiana Tax Commission may assist the Louisiana Forestry Commission in determining the average stumpage market value of timber and repeals the portion of the law that required the two commissions to set the value jointly. Act 195 also changed the meeting date from the "second Monday in December" to simply "in December." This change is also reflected in the proposed amendment to Sections 101 and 105. Section 301 is being repealed because the department is no longer going to own tree seedling nurseries. The amendments to Section 501 are intended to bring the prices charged at the Indian Creek recreation area in line with those charged by other state parks in Louisiana. The amendments to Section 701 establish a distinction between two sizes of dozer equipment used in forest landowner assistance. Section 1001 is being amended to correct a typographical error. Section 1307 is being amended to increase the maximum cost share amount available to a landowner. This will result in more efficient use of timber management practices. The amendments also change the coding system used internally to administer the Forest Productivity Program. Section 1321 is being amended to use "may" instead of "shall." The law, R.S. 3:4416, does not require a portion of monies be set aside each year; therefore, the use of "may" is appropriate.

Title 7
AGRICULTURE AND FORESTRY
Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§101. Authority

A. The Louisiana Forestry Commission and the Louisiana Tax Commission adopt these regulations under the authority of R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of R.S. 47:633, which requires the Louisiana Forestry Commission determine the current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), repromulgated LR 21:1069 (October 1995), amended by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), LR 24:1081 (June 1998), LR 24:2075 (November 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

§105. Notice

A. The Office of Forestry shall annually publish in the November issue of the *Louisiana Register* a notice of the date, time and place of the meeting of the Louisiana Forestry Commission required by law to be held in December

together with the recommendations of the Office of Forestry and the data used to determine such recommendations.

B. The Office of Forestry upon completion of its recommendations, shall send a copy of its recommendations and the data used as the basis for the recommendations to all interested parties who have requested a copy of the recommendation.

C. Notice of the commission's determination of the current average stumpage market value of trees, timber and pulpwood shall be immediately sent to all interested parties who have requested notice or who are required by law to receive notice and shall be published in the Potpourri section of the next available edition of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

§107. Annual Determination of Current Average Stumpage Market Value

A. At the annual meeting held by the commission to determine the current average stumpage market value of timber and pulpwood the commission may determine the stumpage market value based on the sales of timber as reported to the Louisiana Department of Revenue and as published in the *Quarterly Report of Forest Products* by the Louisiana Department of Agriculture and Forestry, and may also give consideration given to current published market prices. All comments and input submitted by interested parties at this meeting shall be considered by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274, R.S. 47:1837 and R.S.47:633 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

Chapter 3. Tree Seedlings

§301. Seedling Prices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 (December 1996), LR 26:2437 (November 2000), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 30:200 (February 2004), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 37:2986 (October 2011), repealed by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

Chapter 5. Indian Creek Recreation Area

§501. Usage Fees

A. The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions:

1. entrance fee (day use)—$7 per vehicle with up to six occupants. additional $2.00 per person for additional occupants;
2. regular campsite—$22/day;
3. water front campsite—$28/day;
4. pull-through campsite—$22 ea or $42 all day;
5. pull-through water front—$28 ea or $54 all day;
6. primitive campsite—$14/tent/day;
7. pavilion rental—$100/day; $50 deposit required;
8. boat launch—$7/boat;
9. 30-day off-season rate for (Oct.-Feb. only):
   a. regular campsite—$270/month;
   b. water front—$375/month;
10. 30-day off-season rate for pull-through campsite (Oct.-Feb. only)—$270/month.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997), LR 30:195 (February 2004), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

Chapter 7. Forest Landowner Assistance

§701. Management Service Fees

A. The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

1. Basic Services ($300 minimum charge)—performed on an as-requested basis in all Office of Forestry districts:
   a. prescribed burning services:
      i. reforestation (cutover areas):
         (a). $25/acre plus fireline establishment: $70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;
         (b). $100/hour for heavy tractor (dozer) work-750 John Deere (or other brand of similar power);
      ii. afforestation (pasture, etc.):
         (a). $15/acre plus fireline establishment: $70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;
         (b). $100/hour for heavy tractor (dozer)work-750 John Deere (or other brand of similar power);
      iii. prescribed burns (fuel reduction, hardwood control, wildlife habitat, etc.):
         (a). $20/acre plus fireline establishment: $70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;
         (b). $100/hour for heavy tractor (dozer) work-750 John Deere (or other brand of similar power);
      iv. onsite prescribed burn standby:
         (a). $10/acre plus fireline establishment: $70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;
         (b). $100/hour for heavy tractor (dozer) work – 750 John Deere (or other brand of similar power);
      v. fireline establishment only:
         (a). $70/hour for light tractor (dozer) work-650John Deere (or other brand of similar power) or less;
         (b). $100/hour for heavy tractor (dozer)work-750 John Deere (or other brand of similar power).

2. Special Services—performed when approved on a case-by-case basis:

a. tree planting (seedlings or seed not included)—$46/acre;

b. direct seeding (seedlings or seed not included)—$10/acre;

c. light tractor (dozer) work [650 John Deere (or other brand of equal power) or less] —$70/hour ($300 minimum);

d. heavy tractor (dozer) work [over 650 John Deere or other brand of equal power]—$100/hour ($300 minimum);

e. timber marking—$25/acre (only available on 40 acres or less).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4276, R.S. 3:4274 and R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 32:1782 (October 2006), LR 41:

Chapter 10. Reforestation of Public Lands

§1001. Scope; Agencies Involved

A. Any state agency, department, board or commission, desiring to cut down or remove any tree or trees 10" diameter-breast-height or larger must first submit a request for approval to the Louisiana Department of Agriculture and Forestry, Office of Forestry, Box 1628, Baton Rouge, LA 70821-1628, addressed to the attention of the state forester.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992), amended LR 41:

Chapter 13. Forestry Productivity Program

§1307. Extent of State Participation

A. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value of $15,000 during a fiscal year.

B. - C. …

D. The maximum cost share rates are established as follows.

Maximum Cost-Share Rates 50 Percent of the Cost per Acre Not to Exceed the Following Rates		
FPP1	**Artificial Regeneration Component**	
Code	**Tree Planting**	**Maximum C/S Rate**
01.1	Pine (loblolly or slash, planting and seedling cost)	$50/acre
01.5	Containerized Pine (loblolly or slash, planting and seedling cost)	$60/acre
02.1	Hardwood (planting and seedling cost)	$90/acre
02.5	Containerized Hardwood (planting and seedling cost)	$110/acre
03.1	Labor Only (pine or hardwood)	$25/acre
03.5	Labor only (containerized pine or hardwood)	$35/acre
04.1	Longleaf Pine (planting and seedling cost)	$60/acre
04.5	Containerized Longleaf Pine (planting and seedling cost)	$80/acre

Maximum Cost-Share Rates 50 Percent of the Cost per Acre Not to Exceed the Following Rates		
Direct Seeding		
05.1	Pine (seed and labor cost)	$15/acre
06.1	Hardwood (seed and labor cost)	$30/acre
Site Preparation		
11.1	Light (discing, mowing, or sub-soiling)	$15/acre
12.1	Burn Only (cut-over areas or agricultural lands)	$20/acre
13.1	Chemical and Burn (aerial, ground, or injection)	$75/acre
14.1	Mechanical and Burn	$115/acre
15.1	Post-site Preparation (aerial, ground, or injection)	$50/acre
16.1	Chemical and Herschal	$90/acre
FPP2	**Site Preparation for Natural Regeneration**	
21.1	Burning Only	$15/acre
22.1	Chemical or Mechanical	$65/acre
23.1	Chemical and Burning	$75/acre
FPP3	**Control of Competing Vegetation**	
31.1	Chemical Release (aerial, ground, or injection)	$50/acre
32.2	Precommercial Thinning (mechanical)	$65/acre
33.2	Burning Only	$15/acre

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:

§1321. Competitive Research and Cooperative Extension Grants

A. …

B. Each fiscal year the commissioner may set aside a portion of the monies in the fund to be used for competitive grants.

C. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4416.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998); amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1 the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Wade Dubea, State Forester, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 6000, Baton Rouge, LA 70806, and must be received no later than 4 p.m. on the 4th day of September 2015. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Stumpage; Seedlings; Indian Creek Recreation Area; Landowner Assistance; Reforestation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes to Rule 1307, which raises the reimbursement ceiling of the Forest Productivity Program from $10,000 to $15,000 annually, may result in additional costs for the Department of Agriculture & Forestry to the extent that landowners make full use of the cost share rates. The new maximum reimbursement reflects the increased cost of management for the Forest Productivity Program, which is funded using revenues from timber severance taxes.

The proposed changes to Rules 101, 105, 107, 301, 501, 1001, and 1321 are not anticipated to result in savings or costs to state or local governmental units. The proposed changes to Rules 101, 105, and 107 remove references to the LA Tax Commission in regards to the commission no longer having a role in determining stumpage market values pursuant to Act 330 of the 2015 Legislative Session. The proposed change to Rule 301 repeals provisions relative to seedling prices. The proposed change to Rule 501 raises fees for the use of amenities at the Indian Creek Recreation Area. The proposed change to Rule 1001 corrects a typographical error. The proposed change to Rule 1321 gives the Commissioner of Agriculture discretion over setting aside monies in the Forestry Protection Fund for competitive research and cooperative extension grants.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed changes to Rule 501 will increase revenue due to patrons of Indian Creek Recreational Area paying higher rates. The proposed changes to Rule 701 will increase revenues for the Department of Agriculture & Forestry as the proposed rule outlines different rates for light dozer ($70/hour) and heavy dozer work ($100/hour) to the extent consumers require heavy dozer work. The previous hourly rate for all dozer work was $70. The remaining proposed rule changes are not anticipated to have a direct material effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment to Rule 1307 will benefit landowners in the state by raising the maximum reimbursement rate under the Forest Productivity Program from $10,000 to $15,000 annually, which reflects the cost of management for the program. The proposed changes to Rule 501 will result in patrons of the Indian Creek Recreation Area paying higher rates to use the area's amenities. The proposed changes to Rules 101, 105, 107, 301, 1001, and 1321 are not anticipated to have a direct cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to have a material effect on competition and employment.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1507#047	Legislative Fiscal Office

NOTICE OF INTENT

Board of Trustees of the District Attorneys' Retirement System

District Attorneys' Retirement System
(LAC 58:XXI.Chapters 1-7)

The Board of Trustees of the District Attorneys' Retirement System ("DARS") proposes to adopt LAC 58.XXI.Chapters 1-7 as interpretation of the provisions of the District Attorneys' Retirement System, as authorized by R.S. 11:1588(A), 1614(F), 1632(F), 1635(E), and 1636(E). This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of the proposed Rule is compliance with requirements imposed by the Internal Revenue Service as a condition of its favorable determination letter on the qualification of the District Attorneys' Retirement System under *Internal Revenue Code* (IRC) §401(a).

Title 58
RETIREMENT
Part XXI. District Attorneys' Retirement System
Chapter 1. General Provisions
§101. Compensation

A. Definitions. As provided under R.S. 11:1581(5), effective for limitation years beginning on or after July 1, 2007, compensation is hereby defined as follows.

Compensation—the regular pay of the member, not including any overtime or bonuses.

DARS—the District Attorneys' Retirement System, as set forth in R.S. 11:1581 through 1702 and this Part.

IRC §415 Compensation—wages, tips and other compensation required to be reported under §§6041, 6051 and 6052 of the *Internal Revenue Code* (IRC) (wages, tips and other compensation box on IRS Form W-2), during the calendar year of the plan (the plan year or determination period).

B. Exclusions from Compensation. Compensation shall not include:

1. any amounts that are not includible in IRC §415 compensation;

2. employer contributions to a plan of deferred compensation to the extent contributions are not included in gross income of the employee for the taxable year in which contributed, or on behalf of an employee to a simplified employee pension plan and any distributions form a plan of deferred compensation;

3. amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee becomes freely transferable or is no longer subject to a substantial risk of forfeitures;

4. amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

5. other amounts that receive special tax benefits, or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of a IRC §403(b) annuity contract (whether or not the contributions are excludible from the gross income of the employee); and

6. pre-tax amounts contributed by the employee to an IRC §125 cafeteria plan.

C. Determination of IRC §415 Compensation. IRC §415 compensation must be determined without regard to any rules under IRC §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC §3401(a)(2)).

1. For plan years beginning on and after January 1, 2001:

a. IRC §415 compensation shall include elective amounts that are not includible in the gross income of the employee under IRC §§125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457.

2. For any plan year beginning after December 31, 2001:

a. IRC §415 compensation shall not exceed the maximum amount of compensation permitted to be taken into account under IRC §401(a)(17), $200,000 adjusted for the cost of living increases in accordance with IRC §401(a)(17)(B).

i. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

3. If a determination period consists of fewer than 12 months, as a result of a change in plan year or in the year of the termination of the plan.

a. The IRC §415 compensation limit is an amount equal to the otherwise applicable IRC §415 compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12.

4. If IRC §415 compensation for any prior determination period is taken into account in determining a participant's benefit for the current plan year, the IRC §415 compensation for such prior determination period is subject to the applicable IRC §415 compensation limit in effect for that prior period.

D. IRC §415 Compensation Paid After Severance from Employment

1. Adjusted Compensation. IRC §415 compensation shall be adjusted for the following types of compensation paid after a participant's severance from employment with the employer maintaining the plan (or any other entity that is treated as the employer pursuant to IRC §414(b), (c), (m) or (o)). However, amounts described in Paragraphs 2-8 of this Subsection may only be included in IRC §415 compensation to the extent such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance from employment that is not described in the following types of compensation is not considered IRC §415 compensation within the meaning of IRC §415(c)(3), even if payment is made within the time period specified above.

2. Regular Pay. IRC §415 compensation shall include regular pay after severance from employment if:

a. the payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

b. the payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the employer.

3. Leave Cashouts. Leave cashouts shall be included in IRC §415 compensation if:

a. those amounts would have been included in the definition of IRC §415 compensation if they were paid prior to the participant's severance from employment; and

b. the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if:

i. the participant would have been able to use the leave if employment had continued.

4. Deferred Compensation. IRC §415 compensation will include deferred compensation if the compensation would have been included in the definition of IRC §415 compensation and if:

a. it had been paid prior to the participant's severance from employment; and

b. the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if:

i. the payment would have been paid at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income.

5. Qualified Military Service. IRC §415 compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in IRC §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

6. Permanently and Totally Disabled. IRC §415 compensation does not include compensation paid to a participant who is permanently and totally disabled (as defined in IRC §22(e)(3)).

7. Amounts Earned but not Paid. IRC §415 compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

8. Lost Wages. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate an employee for lost wages are IRC §415 compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in IRC §415 compensation.

E. Limitation Year

1. The limitation year:

a. shall be the calendar year;

b. is the period that is used to apply the limitations of IRC §415.

2. The limitation year may only be changed by amendment to DARS. Furthermore, if DARS is terminated effective as of a date other than the last day of DARS's limitation year, then DARS is treated as if DARS had been amended to change its limitation year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A), R.S. 11:1581(5)(b), and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

§103. Actuarial Equivalent

A. As provided under R.S. 11:1588(A), *actuarial equivalent* shall be defined using the following assumptions.

1. Interest shall be compounded annually at the rate of 7 1/2 percent per annum.

2. Annuity rates shall be determined on the basis of RP2000 combined healthy table set back three years for males and two years for females and uninsured.

B. For purposes of comparing benefits of the forms of distribution with the maximum limitation on benefits, the applicable mortality tables described in IRC §417(e)(3)(B) shall be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A) and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

§105. Accumulated Contributions, Rollovers

A. Definitions. As provided in R.S. 11:1635(E), the following definitions are provided or revised.

2009 RMDs of a Participant or Beneficiary—amounts that the participant or beneficiary would have been required to receive as a required minimum distribution under IRC §401(a)(9) for the 2009 distribution calendar year.

Eligible Retirement Plan—shall include, in addition to the plans and accounts described in R.S. 11:1635(D)(3), the following.

a. Effective for distributions on or after January 1, 2007, eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiary with the special rules for surviving spouse beneficiaries.

b. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments of distributions were made, or a Roth IRA of such individual. Effective January 1, 2007, a Roth IRA is an eligible retirement plan with respect to distributions from this plan that do not consist of designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

Eligible Rollover Distribution—shall include, in addition to the events set forth in R.S. 11:1635(D)(4), the following.

a. Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in §408(a) or (b) of the *Internal Revenue Code*, or a Roth individual retirement account or annuity described in §408A of the *Internal Revenue Code* (a "Roth IRA") or to a qualified defined contribution plan described in §§401(a) or 403(a) of the *Internal Revenue Code* that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

b. Effective January 1, 2007, eligible rollover distributions shall include a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant, or Roth IRA established on behalf of the nonspouse designated beneficiary for the purpose of receiving the distribution. Effective January 1, 2007, early rollover distribution shall include after-tax contributions held in a plan qualified under §401(a) of the *Internal Revenue Code*. Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.

c. During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

B. Rollover of Returned Contributions. As provided in R.S. 11:1635(E):

1. distributee, eligible retirement plan and eligible rollover distribution shall be defined as provided in Subsection A of this Section;

2. an eligible rollover distribution shall be transferred in a direct rollover to an eligible retirement plan if so

directed by the distributee. The board shall provide distributees with the opportunity to direct such direct rollover by written notice at least 30 and not longer than 180 days prior to the distribution;

3. this rollover right shall apply to any eligible rollover distribution, including distributions of accumulated contributions, DROP accounts and back-DROP accounts.

C. Eligible Retirement Plan

1. Effective for distributions on or after January 1, 2007:

a. eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiaries with the special rules for surviving spouse beneficiaries;

b. a Roth IRA is an eligible retirement plan with respect to distributions from the fund that do not consist of designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

D. Eligible Rollover Distribution

1. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

2. Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in IRC §408(a) or (b), or to a qualified defined contribution plan described in IRC §§401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

3. Effective January 1, 2007, eligible rollover distributions shall include:

a. a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant;

b. after-tax contributions held in a plan qualified under IRC §401(a).

4. Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.

5. During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

E. Repayment of Withdrawn Accumulated Contributions

1. As provided in R.S. 11:1617(B), payment may be made directly by the member or may be made on the member's behalf in a single sum payment by:

a. an individual retirement account; or

b. an individual retirement annuity; or

c. a plan qualified under IRC §§401(a), 403(a), 403(b), or 457(g).

2. Source of Contribution. Amounts contributed under Paragraph 1 of this Subsection shall not consist of amounts for which additional recordkeeping is required, such as after tax or Roth accounts. The trustees shall have discretion whether to accept contributions in any particular form.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1617(B), and the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

Chapter 3. Creditable Service

§301. Benefits for Qualified Military Service

A. Death and Disability. As provided under R.S. 11:1614(F), the following shall apply.

1. In the case of a death or disability occurring on or after January 1, 2007, if a member dies or becomes disabled while performing qualified military service (as defined in IRC §414(u)), the member or the member's beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment on account of death.

a. Moreover, the plan will credit the member's qualified military service as service for vesting purposes, as though the member had resumed employment under USERRA immediately prior to the member's death.

B. Differential Wage Payments. If the member's employer makes differential wage payments during the member's qualified military service, then the member shall be credited with compensation for purposes of the system.

C. Qualified Military Service—any service in the uniformed services (as defined in chapter 43 of title 38, United States Code), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A), R.S. 11:1614(F), and the provisions of the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

Chapter 5. Limitation on Payment of Benefits

§501. Suspension of Benefits

A. As provided in R.S. 11:1631(E) and (F), if a member has commenced to receive distributions under R.S. 11:1632 or 1633, then benefits to such member shall be suspended upon his reemployment by a contributing employer to the system, and the suspension shall continue so long as he is still employed. If such member later terminates employment,

he shall commence to receive minimum distributions again and shall be entitled to elect the method of receiving such distributions, with his required beginning date to be determined based on the date of his termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A) and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

§503. Definitions

A. Definitions. For purposes of this Title, the following definitions apply.

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity.

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, $160,000, automatically adjusted under IRC §415(d), effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity:

a. the new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year;

b. the automatic annual adjustment of the defined benefit dollar limitation under IRC §415(d) shall apply to participants who have had a separation from employment.

Required Beginning Date of a Member—April 1 of the calendar year following the year in which the plan member terminated employment with the employers that contribute to the system. Any required beginning date occurring in 2009 shall be extended for one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588A and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

§505. Benefit Limitations

A. Maximum Permissible Benefit. As provided under R.S. 11:1632, the following provisions shall apply for limitation years beginning on or after July 1, 2007.

1. Annual Benefit—Maximum Permissible Benefit. The annual benefit, otherwise payable to a participant under the plan, at any time shall not exceed the maximum permissible benefit. If the benefit the participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

2. Adjustment if in Two Defined Benefit Plans. If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the participant's annual benefit from all such plans may not exceed the maximum permissible benefit. Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the employer shall limit a participant's benefit in accordance with the terms of the plans.

3. Limits Grandfathered prior to July 1, 2007

a. The following sentence in Clause i of this Subparagraph applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to IRC §415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in U.S. Treasury regulations §1.415(a)-1(g)(4).

i. The application of the provisions of this Part shall not cause the maximum permissible benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007.

B. Annual Benefit Determination

1. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Part.

2. For a participant who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Part as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates.

a. For this purpose, the determination of whether a new annuity starting date has occurred shall be made:

i. without regard to U.S. Treasury regulations §1.401(a)-20, Q and A-10(d); and

ii. with regard to U.S. Treasury regulations §1.415(b)1(b)(1)(iii)(B) and (C).

3. The determination of the annual benefit shall take into account Social Security supplements described in IRC §411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to U.S. Treasury regulations §1.411(d)-4, Q and A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

C. Actuarial Adjustment. No actuarial adjustment to the benefit shall be made for:

1. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form;

2. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

3. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to IRC §417(e)(3) and would otherwise satisfy the limitations of this Part, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Part applicable at the annuity starting date, as increased in subsequent years pursuant to IRC §415(d).

a. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

D. Actuarial Equivalent—Straight Life Annuity

1. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Subparagraph a of this Paragraph.

a. The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this Subparagraph if the form of the participant's benefit is either:

i. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

ii. an annuity that decreases during the life of the participant merely because of:

(a). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(b). the cessation or reduction of Social Security supplements or qualified disability payments (as defined in IRC §401(a)(11)).

2. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount:

a. the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

b. 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

3. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

a. the annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and

b. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A) and 11:1632(F).

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

Chapter 7. Required Minimum Distributions

§701. Required Beginning Date

A. Definition

Required Beginning Date of a Participant who is a 5 Percent Owner of an Adopting Employer—the first day of April of the calendar year following the calendar year in which the participant attains age 70 1/2. The required beginning date for benefit distributions to a participant other than a 5 percent owner shall be the first day of April of the calendar year following the calendar year in which the later of the following occurs: the participant attains age 70 1/2, or the participant retires. Once distributions have begun to a 5 percent owner under this Section, they must continue to be distributed, even if the participant ceases to be a 5 percent owner in a subsequent year.

B. Annuity Distributions

1. Benefits due to a member who is eligible for retirement under R.S. 11:1632, 1633, or 1634 shall commence on or before the required beginning date.

2. Death before Date Distributions Begin. If the member dies before distribution of his or her interest begins, distribution of the member's interest in the applicable account(s) will be distributed or begin to be distributed, no later than as follows.

a. Member Survived by Designated Beneficiary. If the member dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the member's death is the quotient obtained by dividing the member's account balance by the remaining life expectancy of the member's designated beneficiary.

b. No Designated Beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's interest in the applicable account(s) will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

c. Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the member dies before the date distributions begin, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Paragraph C.6 of this Section, this Section will apply as if the surviving spouse were the member.

d. For purposes of this Section, any amount paid to a child of the member will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

e. For the purposes of this Section, distribution of a member's interest in the applicable account(s) is considered to begin on the member's required beginning date (or, if Subparagraph c of this Paragraph is applicable, the date distribution is required to begin to the surviving spouse pursuant to Subparagraph a of this Paragraph).

C. Applicable Accounts

1. This Subsection shall apply with respect to any account that is part of the system that is considered to be a defined contribution account within the system. This Subsection shall apply to the refund of accumulated contributions as provided in R.S. 11:1635, to the Back-Deferred Retirement Option Program account as provided in R.S. 11:1644 and to the Deferred Retirement Option Plan account as formerly provided in R.S. 11:1639-1643 before repeal (hereinafter referred to as "applicable account" or "accounts").

2. The applicable account(s) of a member must be distributed or begin to be distributed no later than the member's required beginning date. The first distribution calendar year shall be the calendar year in which the member attains age 70 1/2 or has a severance from employment with the employer maintaining this system, if

later. Distribution shall be made over a period not longer than that provided under this Subsection.

3. Death of Member before Distributions Begin. If the member dies before distributions begin, the member's applicable account(s) will be distributed, or begin to be distributed, no later than as follows.

a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 1/2, if later.

b. If the member's surviving spouse is not the member's sole designated beneficiary, then distributions to the designated beneficiary will be made or will begin by December 31 of the calendar year immediately following the calendar year in which the member died.

c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's applicable account will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse are required to begin, this Subsection (other than Subparagraph a of this Paragraph) will apply as if the surviving spouse were the member. For purposes of this Subsection, distributions are considered to begin on the member's required beginning date, or if applicable, on the date distributions are required to begin to the surviving spouse. The date distributions are considered to begin is the date distributions actually commence.

4. Forms of Distribution. Unless the member's interest is distributed in a single-sum on or before the required beginning date, as of the first distribution calendar year, distributions will be made in accordance with this Subsection.

5. Required Minimum Distribution for each Distribution Calendar Year. If the member's interest in the applicable account(s) is to be distributed in other than a single sum, the following minimum distribution rules shall apply on or after the required beginning date.

a. During the member's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

i. the quotient obtained by dividing the member's account balance by the distribution period in the uniform lifetime table set forth in 26 CFR §1.401(a)(9)-9, Q and A-2, using the member's age as of the member's birthday in the distribution calendar year; or

ii. if the member's sole designated beneficiary for the distribution calendar year is the member's spouse, the quotient obtained by dividing the member's account balance by the number in the joint and last survivor table set forth in 26 CFR §1.401(a)(9)-9, Q and A-3, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the distribution calendar year.

b. Required minimum distributions will be determined under this Section beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the member's date of death.

c. *Member's Benefit*—the account balance of the applicable account or accounts as of the last valuation date in the calendar year immediately preceding the distribution calendar year increased by the amount of any contributions allocated to the applicable account balance as of dates in the distribution calendar year with respect to the first distribution year, after the valuation date and decreased by distributions made in the distribution calendar year after the valuation date.

i. For purposes of Subparagraph c of this Paragraph, if any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been in the immediately preceding distribution calendar year.

6. Required Minimum Distributions after Member's Death. If the member dies after distribution of his or her applicable account(s) has begun, the remaining portion of such account(s) will continue to be distributed at least as rapidly as under the method of distribution being used prior to the member's death.

a. Member is Survived by Designated Beneficiary. If the member dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the member's death is the quotient obtained by dividing the member's account balance by the longer of the remaining life expectancy of the member or the remaining life expectancy of the member's designated beneficiary, determined as follows.

i. The member's remaining life expectancy is calculated using the age of the member in the year of death, reduced by one for each subsequent year.

ii. If the member's surviving spouse is the member's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the member's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

iii. If the member's surviving spouse is not the member's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the member's death, reduced by one for each subsequent year.

b. No Designated Beneficiary. If the member dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the member's death, the minimum amount that will be distributed for each distribution calendar year after the year of the member's death is the quotient obtained by dividing the member's account balance by the member's remaining life expectancy calculated using the age of the

member in the year of death, reduced by one for each subsequent year.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A) and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D), or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

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 100 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

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors, has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to E. Pete Adams, 1645 Nicholson Drive, Baton Rouge, LA 70802-8143. 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 August 10, 2015.

E. Pete Adams
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: District Attorneys' Retirement System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in an increase in expenditures for the District Attorneys' Retirement System (DARS) in the amount of $25,000 in FY 2015-16. The purpose of the rule change is to codify current practices and to comply with Internal Revenue Service requirements for qualification of the District Attorneys' Retirement System under Section 401(a) of the Internal Revenue Code. The increase in expenditures is for professional services, including attorney fees for filing with Internal Revenue Service and for filing fees and correction charges.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in a decrease in revenue collections to state governmental units. District attorney's offices that were not deducting employee contributions before taxes will now make pre-tax deductions, which may result in a decrease in state tax collections. The exact amount is indeterminable since it is unknown how many offices do not provide pre-tax deductions. Some employees directly rolling qualified funds from or to DARS will defer tax on such funds because of the ability to roll over these funds tax free.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may save or postpone Federal income taxes (and attendant state taxes) for individuals seeking to transfer funds from other state retirement systems for their benefit under the DARS. It may save or postpone Federal income taxes for individuals receiving a lump sum or partial lump sum distribution from DARS because they will be able to roll the funds over tax free. Members of DARS that did have contributions deducted pre-tax will now have contributions deducted pre-tax.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

E. Pete Adams	Evan Brasseaux
Director	Staff Director
1507#077	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulation (LAC 28:CLXI.Chapters 1-19)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXI, *Bulletin 137—Louisiana Early Learning Center Licensing*

Regulations: §103, Definitions; §305, Operating Without a License; Registry; Penalties; §507, Criminal Background Checks for Owners; §701, Initial Application Process; §703, Initial Inspection Process; §903, Change of Ownership; §1105, Identified Violations and Fines; §1111, Payment of Fines; §1301, Reasons for Denial; Revocation or Refusal to Renew; §1303, Notice of Denial, Revocation or Refusal to Renew; §1307, Appeal of Denial, Revocation or Refusal to Renew; §1511, Procedures; §1515, Child Records and Cumulative Files; §1703, Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors; §1707, Required Staff; §1713, Supervision; §1721, Continuing Education; §1903, Physical Environment; §1907, Furnishings and Equipment; and §1921, Emergency Preparedness and Evacuation Planning.

The revisions to the regulations make technical changes and add clarifications where needed; ensure children can receive therapeutic services in appropriate settings from professionals; and enable Type III early learning centers (child care and Head Start) to allow staff from other centers perform classroom observations (CLASS observations).

The text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

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 100 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? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 137—Louisiana Early Learning Center Licensing Regulation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will result in a savings to the Department of Health and Hospitals as they will not be required to obtain a Right to Review every year. The Criminal Background Check (CBC) affidavit will suffice. This is a cost savings of $26 per year per staff member.

The revisions to the regulations make technical changes and add clarifications where needed; ensure children can receive therapeutic services in appropriate settings from professionals; and enable Type III early learning centers (child care and Head Start) to allow staff from other centers perform classroom observations (CLASS observations).

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)

The proposed policy will result in a savings to Type III early learning centers for staff providing classroom observations in early childhood care and education classrooms

as they will not be required to obtain a Right to Review. This is a cost savings of $26 per year per staff member.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1507#045	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 138—Jump Start Program—Student Participation
(LAC 28:CLXIII.305)

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 138—Jump Start Program*: §305, Student Participation in Jump Start Programs. The proposed policy revisions provide guidance for Jump Start internships.

Title 28
EDUCATION
Part CLXIII. Bulletin 138—Jump Start Program
Chapter 3. Jump Start Program Requirements
§305. Student Participation in Jump Start Programs

A. - A.4. …

B. LEAs shall provide information as required by the LDE for all students participating in Jump Start internships at the completion of the semester in which the Carnegie credit is earned. Information shall include, but not be limited to, student attendance, student performance, student and employer responsibilities, and student completion of a workplace safety orientation consistent with the Jump Start pathway.

C.1. Each LEA participating in a regional team shall make available to all students the courses and training experiences included in approved Jump Start programs in order to meet career diploma graduation requirements or to satisfy elective credit requirements.

2. Jump start programs shall include a required career readiness course to teach students the employability skills needed to succeed in a high-performance work organization, including workplace, interpersonal, communication, leadership, and basic soft skills. The focus of career readiness courses shall be to teach students transferable skills necessary to succeed in the ever-changing workplace through teamwork, problem solving, communication, and self-management.

D. Enrollment of students in courses offered by approved course or training providers shall satisfy the requirements of Louisiana's compulsory attendance laws.

E. Each LEA participating in a regional team shall assure that all students enrolled in grades nine through twelve, including transitional ninth grade, are afforded the opportunity to participate in and benefit from approved Jump Start programs. Students who have not yet completed required core academic content may participate in Jump Start programs if deemed appropriate by the LEA, in order to assist them in:

1. facilitating the transition from middle school or junior high school to high school;
2. improving study skills;
3. building self-esteem and social skills;
4. developing critical thinking and problem-solving strategies;
5. acquiring employment skills;
6. promoting self-reflection and self-advocacy skills;
7. increasing school attendance;
8. improving attitudes toward school;
9. avoiding dropping out of school; and
10. establishing life and career goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:183.2, and R.S. 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1327 (July 2014), amended LR 41:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

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 100 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? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 138—Jump Start Program—Student Participation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an indeterminable impact to MFP funding as a result of the proposed revisions, which provide guidance for delineating between the internships that are included in BESE approved Jump Start Graduation Pathways. Depending on the type of internship offered, school districts can receive extra funds through the Career and Technical Education weight (6% add on) and/or the Career Development Fund component of the MFP (additional 6% add on) for Jump Start internships. Changes in the reporting requirement should result in a more accurate enrollment count of students in eligible internships, which could impact MFP allocations for the school districts.

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
1507#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.Chapters 1-11)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6, to amend LAC 28:CLXV, *Bulletin 139—Louisiana Child Care and Development Fund Programs*. As part of the child care and development fund (CCDF) transition, per by Act 868 (2014), BESE approved the establishment of Bulletin 139 at the March 2015 meeting and also approved revisions to the policy at the April 2015 meeting. In June, BESE approved the addition of chapters regarding the Child Care Assistance Program (CCAP) household eligibility, administration of school readiness tax credits, and Louisiana Pathways early learning center career development system. Additionally, this revision authorizes the Department of Education administration of CCAP household eligibility, SRTC, and Pathways, after July 1, 2015, (the date the LDE is officially lead agency for CCDF), and makes minor administrative changes to existing DCFS regulations to reflect the transition.

The full text to this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

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 100 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? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will have no effect on costs or savings to state or local governmental units over the next two fiscal years as the Child Care and Development Fund (CCDF) program will continue to operate within the availability of CCDF and School Readiness Tax Credit funds. The fiscal impact for FY 2017-2018 and beyond is indeterminable as BESE has not yet promulgated rules for the replacement of the Quality Start Rating Program, which will terminate on June 30, 2017, which will be done through Bulletin 140 in summer 2016.

As part of the Child Care and Development Fund (CCDF) transition, per by Act 868 (2014), BESE approved the establishment of Bulletin 139 at the March 2015 meeting and also approved revisions to the policy at the April 2015 meeting. In June BESE approved the addition of chapters regarding the Child Care Assistance Program (CCAP) Household Eligibility, Administration of School Readiness Tax Credits, and Louisiana Pathways Early Learning Center Career Development System. Additionally, this revision authorizes the Department of Education to administer the CCAP Household Eligibility, SRTC, and Pathways, after July 1, 2015, (the date the LDE is officially Lead Agency for CCDF), and makes minor administrative changes to existing DCFS regulations to reflect the transition.

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
1507#037

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—TOPS University Diploma
(LAC 28:CXV.2318 and 2354)

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 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; and §2354, Media Arts. The proposed policy revisions add photography I and II and digital photography to the courses that meet the one unit requirement for an arts course for the TOPS university diploma.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2318. The TOPS University Diploma

A. - C.2.g.i. …

h. arts—1 unit:

i. 1 unit art (§2333), dance (§2337), media arts (§2354), music (§2355), theatre arts, (§2369), fine arts survey, photography I/II, or digital photography;

NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

2.h.ii. - 3.e.i. …

f. art—one unit chosen from the following:

i. art (§2333);

ii. music (§2355);

iii. dance (§2337);

iv. theatre (§2369);

v. speech III and IV—one unit combined;

vi. fine arts survey;

vii. drafting;
viii. media arts (§2354);
ix. photography I/II;
x. digital photography;

3.g. - 6.a.vi. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 41:915 (May 2015), LR 41:

Subchapter B. Academic Programs of Study

§2354. Media Arts

A. Media arts course offerings shall be as follows.

Course Title(s)	Units
Media Arts I, II, III, IV	1 each
Photography I, II	1 each
Digital Photography	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2133 (July 2011), amended LR 41:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

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 100 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? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—TOPS University Diploma

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

The proposed policy revisions add three courses to the list of courses meeting the arts requirement for a TOPS university diploma.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1507#038	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook
for Nonpublic School Administrators
Graduation Requirements
(LAC 28:LXXIX.2109 and 2324)

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 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2109, High School Graduation Requirements; and §2324, Media Arts. The proposed policy revisions add photography I and II and digital photography to the courses that meet the one unit requirement for an arts course for the TOPS university diploma.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools
§2109. High School Graduation Requirements

A. - B.6. …

7. arts—1 unit, shall be 1 unit of art (§2305), dance (§2309), media arts (§2324), music (§2325), theatre, fine arts survey, photography I/II, or digital photography;

NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

B.8. - D.5.a. …

6. art—one unit from the following:
   a. art (§2305);
   b. music (§2325);
   c. dance (§2309);
   d. theatre (§2337);
   e. speech III and IV—one unit combined;
   f. fine arts survey;
   g. drafting;
   h. media arts (§2324);
   i. photography I/II;
   j. digital photography;

D.7. - F.3.b. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:

Chapter 23. High School Program of Studies
§2324. Media Arts

A. Media arts course offerings shall be as follows.

Course Title(s)	Units
Media Arts I, II, III, IV	1 each
Photography I, II	1 each
Digital Photography	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2143 (July 2011), amended LR 41:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

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 100 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? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Graduation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

The proposed policy revisions add Photography I and II and Digital Photography to the courses that meet the one unit requirement for an arts course for the TOPS university diploma.

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
1507#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for
State Certification of School Personnel
(LAC 28:CXXXI.305, 317, 706, 708, 709, 712, and 910)

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 746—Louisiana Standards for State Certification of School Personnel*: §305, Professional Level Certificates; §317, Local Education Agency Appeal; §706, Educational Leader Certificate Level 2 (EDL 2); §708, Educational Leader Certificate Level 3 (EDL 3); §709, Non-Practicing Status for Educational Leader Certificates; §712, Local Education Agency Appeal; and §910, Suspension and Non-Renewal of Certificate/Endorsement Due to Ineffectiveness. The proposed policy revisions to educator certification renewal policy provide for certification renewal when an educator has not been evaluated due to administrative error, a non-practicing status, and an appeal by a local education agency.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 3. Teaching Authorizations and Certifications
Subchapter A. Standard Teaching Authorizations

Editor's Note: The name of the Division of Student Standards and Assessments has been changed to The Division of Student Standards, Assessments, and Accountability.

§305. Professional Level Certificates

A. - A.1.d.i.(c). …

B. Level 2 Professional Certificate—valid for five years.

1. Eligibility requirements:

a. hold or meet eligibility requirements for a level 1 certificate;

b. either successfully meet the standards of effectiveness for three years pursuant to Bulletin 130 and mandated by Act 54 of the Louisiana 2010 Legislative Session or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the teacher was unable to meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year; and

c. accrue three years of experience in area(s) of certification in an approved educational setting.

2. If the level 2 certificate is the applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the level 1 certificated teacher qualifies for advancement to a level 2 certificate, the request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

C. Level 3 Professional Certificate—valid for five years.

1. Eligibility requirements:

a. hold or meet eligibility requirements for a level 2 certificate;

b. a master's degree from a regionally accredited college or university;

c. five years of experience in area(s) of certification in an approved educational setting.

2. If the level 3 certificate is applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the level 2 certificated teacher qualifies for advancement to a level 3 certificate, the request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

D. Renewal/Extension Guidelines for Level 1, Level 2, and Level 3 Certificates

1. Level 1 certificate:

a. valid for three years initially and may be extended thereafter for a period of one year at the request of a Louisiana employing authority. Level 1 certificates are limited to two such extensions. Teachers must successfully meet the standards of effectiveness for the renewal of this certificate pursuant to Bulletin 130 and mandated by Act 54 of the Louisiana 2010 Legislative Session.

2. Level 2 and level 3 certificates:

a. valid for five years initially and may be renewed thereafter for a period of five years at the request of a Louisiana employing authority. For renewal of level 2 and level 3 certificates, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and mandated by Act 54 of the Louisiana 2010 Legislative Session;

b. LEAs may request a one-time five-year renewal of the certificate if a teacher was unable to successfully meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year.

E. Non-Practicing Status for Level 1, 2, 3 Certificates

1. The LDE may grant non-practicing status to any teacher who applies within a year of ceasing employment as a teacher or leader evaluated pursuant to Bulletin 130 and Act 54 of the 2010 Legislative Session. An exception may be made for a teacher or leader who ended employment prior to November 1, 2015 with at least one evaluation rating in 2012-2013, 2013-2014, or 2014-2015.

2. Non-practicing status shall take effect on the last day of employment in the evaluated role, as verified by the employing LEA.

3. Non-practicing teachers returning to practice may apply through a Louisiana education agency for an extension of their certificate for the number of years remaining in the renewal period of the certificate.

4. Final effectiveness ratings earned while in active status will be retained during non-practicing status and applied to any subsequent renewal or extension.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014), LR 41:

§317. Local Education Agency Appeal

A. If a teacher's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has been met, using value-added data or other components of the evaluation, for three years during the initial certification or renewal process, a certificate shall be issued or renewed unless the LDE or BESE receives evidence from the LEA that justifies discontinuation.

B. Similarly, if a teacher's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has not been met, using either value-added data or other components of the evaluation, for three years during the initial certification or renewal process, the LDE/BESE shall not issue or renew a certificate unless evidence of effectiveness is received from the LEA that justifies the issuance of a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S 17:3886.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 7. Administrative and Supervisory Credentials

Subchapter A. The Educational Leadership Certificate

§706. Educational Leader Certificate Level 2 (EDL 2) [Formerly §707]

A. To receive an EDL 2, the individual must:

1. hold a valid EDL 1 certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;

2. have three years of teaching experience in his/her area(s) of certification;

3. participate in an education leader induction administered, if required by the LEA; and

4. either meet the standards of effectiveness as an educational leader for three years pursuant to Bulletin 130 and R.S. 17:3902 or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the educational leader was unable to meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

B. Renewal Requirements. An EDL 2 is valid for five years initially and may be extended thereafter for a period of five years at the request of an LEA. For renewal of EDL 2 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

1. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

2. LEAs may request a one-time five-year renewal of the certificate, if the educational leader was unable to successfully meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 41:

§707. Educational Leader Certificate Level 2 (EDL 2)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), repealed LR 41:

§708. Educational Leader Certificate Level 3 (EDL 3) [Formerly §709]

A. This certificate is required in order to serve as a school system superintendent or assistant superintendent.

1. Eligibility requirements:

a. valid EDL 2 or one of the Louisiana administrative/supervisory certifications that preceded the educational leadership certification structure;

b. five years of teaching experience in his/her area of certification;

c. five years of successful administrative or management experience in education at the level of assistant principal or above. The assistant principal experience would be limited to a maximum of two years of experience in that position; and

d. passing score on the school superintendent assessment (SSA), in keeping with state requirements.

2. Renewal Requirements. An EDL 3 is valid for five years initially and may be extended thereafter for a period of five years at the request of an LEA. For renewal of an EDL 3 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

3. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

4. LEAs may request a one-time five-year renewal of the certificate if the educational leader was unable to successfully meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 38:3139 (December 2012), LR 41:

§709. Non-Practicing Status for Educational Leader Certificates

1. In order to retain evaluation ratings toward certification renewal, the LDE may grant non-practicing status to any educational leader who applies prior to voluntarily ceasing to continue employment with the LEA.

2. Non-practicing educational leaders returning to practice may apply through a Louisiana education agency for an extension of their certificate for the number of years they were not practicing, not to exceed five years.

3. Any final evaluation ratings while in active status will be retained during non-practicing status and applied to any subsequent renewal or extension.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

§712. Local Education Agency Appeal

A. If an educational leader's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has been met, using value-added data or other components of the evaluation, for three years during the initial certification or renewal process, a certificate shall be issued or renewed unless the LDE or BESE receives evidence from the LEA that justifies discontinuation.

B. Similarly, if an educational leader's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has not been met, using either value-added data or other components of the evaluation, for three years during the initial certification or renewal process, the LDE/BESE shall not issue or renew a certificate unless evidence of effectiveness is received from the LEA that justifies the issuance of a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S 17:3886.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:

Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

§910. Suspension and Non-Renewal of Certificate/Endorsement Due to Ineffectiveness

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3140 (December 2012), repealed LR 41:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

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 100 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? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs to state or local governmental units.

The proposed policy revisions to educator certification renewal policy provide for certification renewal when an educator has not been evaluated due to administrative error, a non-practicing status, and an appeal by a Local Education Agency.

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)

Affected educators will avoid recertification costs by entering into a "non-practicing" status versus being forced to allow their certificate to lapse/expire during a break in service. Moreover, these individuals will be able to reenter the Louisiana educator workforce more easily.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1507#040	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Decommissioning Planning
(LAC 33:XV.325, 331, 332, 430, and 1755) (RP059ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.325, 331, 332 and 430 (Log #RP059ft).

This Rule is identical to federal regulations found in 10 CFR 20, 30, 40,and 70, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes minor changes to the requirements for financial assurance and recordkeeping for decommissioning; criteria for license terminations; terms and conditions of licenses; and inalienability of licenses. The Nuclear Regulatory Commission (NRC) promulgated these changes

as RATS ID 2011-1. This Rule will update the state regulations to be compatible with the revisions in the federal regulations. The changes in the state regulations are category A, B, C and H and S requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. 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 XV. Radiation Protection
Chapter 3. Licensing of Byproduct Material
Subchapter D. Specific Licenses
§325. General Requirements for the Issuance of Specific Licenses

A. - D.5. …

* * *

6. Each decommissioning funding plan shall be submitted for review and approval, and shall contain:

a. a detailed cost estimate for decommissioning, in an amount reflecting:

i. the cost of an independent contractor to perform all decommissioning activities;

ii. the cost of meeting the criteria in LAC 33:XV.332.D.1.iii for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of LAC 33:XV. 332.F, the cost estimate may be based on meeting the criteria in LAC 33:XV.332.F;

iii. the volume of on-site subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and

iv. an adequate contingency factor; and

b. identification of and justification for using the key assumptions contained in the decommissioning cost estimate;

c. a description of the method of assuring funds for decommissioning from Paragraph D.8 of this Section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility;

d. a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

e. a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.8 of this Section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

7. At the time of license renewal and at intervals not to exceed three years, the decommissioning funding plan shall be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan shall update the information submitted with the original or prior approved plan, and shall specifically consider the effect of the following events on decommissioning costs:

a. spills of radioactive material producing additional residual radioactivity in on-site subsurface material;

b. waste inventory increasing above the amount previously estimated;

c. waste disposal costs increasing above the amount previously estimated;

d. facility modifications;

e. changes in authorized possession limits;

f. actual remediation costs that exceed the previous cost estimate;

g. on-site disposal; and

h. use of a settling pond.

8. Financial assurance for decommissioning shall be provided by one or more of the following methods.

a. Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

b. Surety Method, Insurance, or Other Guarantee Method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix B. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix B. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix E. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix F. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this Section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions.

i. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Office of Environmental Compliance, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a

replacement acceptable to the department within 30 days after receipt of notification of cancellation.

ii. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

iii. The surety method or insurance must remain in effect until the department has terminated the license.

c. External Sinking Fund. An external sinking fund shall have deposits made to it at least annually, and be coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in Subparagraph D.8.b of this Section.

d. Statement of Intent. In the case of federal, state, or local government licensees, a statement of intent shall be included containing a cost estimate for decommissioning or an amount based on the table in Paragraph D.5 of this Section, and indicating that funds for decommissioning will be obtained when necessary.

e. Arrangement with Governmental Entity. When a governmental entity is assuming custody and ownership of a site, an arrangement shall be made that is deemed acceptable by such governmental entity.

9. Each person licensed under this Chapter shall keep records of information important to the decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the department considers important to decommissioning consists of the following:

a. records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations;

b. as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations;

c. records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used;

d. except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leakage has occurred) or radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years that shall be kept on the following:

i. all areas designated and formerly designated *restricted areas* as defined in LAC 33:XV.102;

ii. all areas outside of restricted areas that require documentation under Subparagraph D.9.a of this Section;

iii. all areas outside of restricted areas where current and previous wastes have been buried, as documented under LAC 33:XV.478; and

iv. all areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in LAC 33:XV.332.E, or apply for approval for disposal under LAC 33.XV.461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 23:1140 (September 1997), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1017 (May 2000), LR 26:2568 (November 2000), LR 27:1227 (August 2001), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2178 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:1927 (October 2014), LR 41:

§331. Specific Terms and Conditions of Licenses

A. - B. …

1. An application for transfer of license shall include the identity, technical and financial qualifications of the proposed transferee, and financial assurance for decommissioning information required by this Chapter.

C. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:2180 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

A. - E.2. …

F. A site will be considered acceptable for license termination under restricted conditions if:

1. the licensee can demonstrate that further reductions in residual radioactivity necessary to comply with the provisions of Clause D.1.e.iii of this Section would result in net public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA (determination of the levels which are ALARA shall take into account consideration of any detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal);

2. the licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the *total effective dose equivalent* (TEDE*)*, as defined in LAC 33:XV.102, from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) per year;

3. the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms include:

a. funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual one percent real rate of return on investment;

b. a statement of intent in the case of federal, state, or local government licensees, as described in LAC 33:XV.325.D.7.d; or

c. when a governmental entity is assuming custody and ownership of a site (an arrangement that is deemed acceptable by such governmental entity); and

4. the licensee has submitted a decommissioning plan or license termination plan (LTP) to the department indicating the licensee's intent to decommission in accordance with Subparagraph D.6.a of this Section, and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice:

a. licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning:

i. whether provisions for institutional controls proposed by the licensee:

(a). will provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) TEDE per year;

(b). will be enforceable; and

(c). will not impose undue burdens on the local community or other affected parties; and

ii. whether the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site;

b. in seeking advice on the issues identified in Subparagraph F.4.a of this Section, the licensee shall provide for:

i. participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

ii. an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

iii. a publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

5. residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and would not exceed either:

a. 100 mrem (1 mSv) per year; or

b. 500 mrem (5 mSv) per year provided the licensee:

i. demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/y (1 mSv/y) value of Subparagraph F.5.a of this Section are not technically achievable, would be prohibitively expensive, or would result in net public or environmental harm;

ii. makes provisions for durable institutional controls; and

iii provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every five years to assure that the institutional controls remain in place as necessary to meet the criteria of Paragraph F.2 of this Section, and to assume and carry out responsibilities for any necessary control and maintenance of those controls (acceptable financial assurance mechanisms are those in Paragraph F.3 of this Section).

G. Alternate Criteria for License Termination

1. The department may terminate a license using alternate criteria greater than the dose criterion in this Section if the licensee:

a. provides assurance that public health and safety would continue to be protected, and that it is unlikely that the dose from all man-made sources combined, other than medical, would be more than the 1 mSv/y (100 mrem/y) limit in LAC 33:XV.421 and 422, by submitting an analysis of possible sources of exposure;

b. has employed to the extent practical restrictions on site use according to the provisions of Subsection F of this Section in minimizing exposures at the site;

c. reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal;

d. has submitted a decommissioning plan or license termination plan (LTP) to the department indicating the licensee's intent to decommission in accordance with Subparagraph D.6.a of this Section, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

i. participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

ii. an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

iii. a publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

e. has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.

2. The use of alternate criteria to terminate a license requires the approval of the department after consideration of the staff's recommendations that will address any comments provided by the Nuclear Regulatory Commission, the Environmental Protection Agency, and any public comments submitted in accordance with Subsection H of this Section.

H. Public Notification and Public Participation

1. Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site in accordance with Subsection F or G of this Section, or whenever the department deems such notice to be in the public interest, the department shall:

a. notify and solicit comments from:

i. local and state governments in the vicinity of the site and any Indian nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and

ii. the Environmental Protection Agency for cases where the licensee proposes to release a site in accordance with Subsection G of this Section; and

b. publish a notice in the *Louisiana Register* and in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

I. Minimization of Contamination

1. Applicants for licenses, other than early site permits and manufacturing licenses under 10 CFR 52 and renewals, whose applications are submitted after August 20, 1997, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in LAC 33:XV.406 and radiological criteria for license termination in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2094 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:2180 (October 2007), LR 41:

Chapter 4. Standards for Protection against Radiation

Subchapter C. Surveys and Monitoring

§430. General

A. Each licensee or registrant shall make, or cause to be made, surveys of areas, including the subsurface, that:

1. may be necessary for the licensee or registrant to comply with this Chapter; and

2. are reasonable under the circumstances to evaluate:

a. the magnitude and extent of radiation levels;

b. …

c. the potential radiological hazards of the radiation levels and residual radioactivity detected.

B. - D. …

E. Notwithstanding LAC 33:XV.472.A, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site shall be kept with records important for decommissioning, and such records shall be retained in accordance with LAC 33:XV.325.D.9 as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:2181 (October 2007), LR 41:

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1755. Records and Retention Periods

A. - B.4. …

5. records related to decommissioning of the irradiator, as required by LAC 33:XV.325.D.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:2190 (October 2007), LR 41:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP059ft. Such comments must be received no later than August 26, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP059ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on August 26, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

1507#050

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Incorporation by Reference—Test Procedures for the Analysis of Pollutants and Effluent Guidelines and Standards (LAC 33:IX.4901 and 4903)(WQ093ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX, 4901 and 4903 (Log #WQ093ft).

This Rule is identical to federal regulations found in *Federal Register* title 40, volume 23, part 136; volume 29 parts 401 and 405-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule changes the reference dates to 40 CFR Part 136 and 40 CFR chapter I, subchapter N, parts 401, 405-471 in the LAC 33:IX, Chapter 49 to July 1, 2014. LAC 33:IX, Chapter 49 incorporates the following portions of federal regulations into the Louisiana water quality regulations:

1. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2014, in its entirety; and

2. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2014.

This action will incorporate the recently updated federal regulations into Louisiana's water quality regulations, increasing the enforceability of LPDES permits that include EPA-approved analytical methods and effluent limitations guidelines. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 1. Water Pollution Control

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2014, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2014 are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945

(September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ093ft. Such comments must be received no later than August 26, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302; or to fax (225) 219-4068; or by e-mail to deidra.johnson@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ093ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on August 26, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

1507#051

NOTICE OF INTENT

Office of the Governor
Board of Professional Geoscientists

Professional Geoscientists (LAC 46:LXII.Chapters 1-19)

The Louisiana Board of Professional Geoscientists hereby gives notice that pursuant to R.S. 37:711.8(C)(1); it intends to promulgate LAC 46:LXII in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Professional Geoscience Practice Act, R.S. 37:711.1 et seq.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXII. Professional Geoscientists
Chapter 1. General Provisions
§101. Definitions

A. The words and phrases defined in R.S. 37:711.2 and as referenced below shall apply to these rules. In addition, the following words and phrases when used in this Chapter shall have the inferred meanings, unless the context clearly requires otherwise.

Accredited Institutions or Programs—an institution or program which holds accreditation or candidacy status from an accreditation organization recognized by the Council for Higher Education Accreditation (CHEA) or other appropriate accrediting entity accepted by the board.

Act—cited as the Louisiana Geoscience Practice Act.

Address of Record—in the case of a person licensed or certified by the board, the address which is filed by the licensee or certificant with the board.

APA—the Administrative Procedure Act.

Application—the forms, information, attachments, and fees necessary to obtain a license as a professional geoscientist or a certification as a geoscientist-in-training.

Certificate—the credential granted by the board signifying the holder has met the requirements as set out in the Act and this Chapter and is qualified to be a geoscientist-in-training.

Certification, Certified, Certificant or Certificate Holder—the recognition granted by the board and its issuance of a Credential to any individual seeking such recognition as geoscientist-in-training, who has been successfully examined and is otherwise in good standing with the board.

Cheating—attempting to obtain, obtaining, providing, or using answers to examination questions by deceit, fraud, dishonesty, or deception.

Complainant—any person, staff member, or member of the board who, after becoming aware of information that may indicate a violation, has filed a sworn, written complaint with the board against any person whose activities are subject to the jurisdiction of the board.

Complaint—an allegation or allegations of wrongful activity related to the practice or offering of geoscience services in Louisiana.

Contested Case or Proceeding—a proceeding in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for adjudicative hearing.

Continuing Education Program (CEP)—the types of credit hours acceptable to qualify for meeting the continuing education requirements for license renewal. The types are:

a. *professional development hour (PDH)*—a contact hour (clock hour) of CEP activity. The PDH is the basic unit for CEP reporting. One hour equals one PDH;

b. *accredited continuing education unit (ACEU)*—unit of credit customarily used for ACEU. One ACEU equals 10 hours (10 PDH) of class in the accredited continuing education course;

c. *college semester hour (CSH)/college quarter hour (CQH)*—credit for a college course in a discipline of geoscience or other related technical elective of the discipline. One CSH equals 15 hours (15 PDH) of class in a college semester course. One CQH equals 10 hours (10 PDH) of class in a college quarter course;

d. *continuing education course/activity (CECA)*—any qualifying course/activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the license holder's field of practice. One CECA hour equals one PDH.

Credential—the endorsed document of legal authority issued by the board showing that a license or certificate has been granted by the board. A credential is not valid unless it is accompanied by a registration card issued by the board which shows the expiration date of the license or certificate.

Direct Supervision—critical watching, evaluating, and directing of geoscience activities with the authority to review, enforce, and control compliance with all geoscience criteria, specifications, and procedures as the work progresses. Direct supervision will consist of an acceptable combination of:

a. exertion of significant control over the geoscience work;

b. regular personal presence;

c. reasonable geographic proximity to the location of the performance of the work; and

d. an acceptable employment relationship with the supervised persons.

Discipline—a branch of instruction or learning focused on a field of specialty training. In this instance involving courses of study centered primarily on geology, but including one or more of the many sub-disciplines of the geologic sciences.

Electronic Signature—the method of affirming the accuracy of the information submitted in the online application procedure for licensure as a professional geoscientist or certification as a geoscientist-in-training.

Executive Secretary—the executive secretary of the board.

Filed Date—the date that the application is first submitted online or that documents have otherwise been received by the board either by date stamp if hand-delivered or by postmark date if the document has been mailed to the board.

Geology—

a. the founding discipline of the geosciences that encompasses the study of the origin, composition, structure, and history of the earth. See geoscience under R.S. 37:711.2 for descriptive detail;

b. there are many specialized sub-disciplines of geology, which include, but are not limited to the following: historical geology, physical geology, economic geology, mineralogy, paleontology, structural geology, mining geology, petroleum geology, geochemistry, geophysics, hydrogeology, petrography, petrology, volcanology, stratigraphic geology, engineering geology, and environmental geology.

Geoscience—the application of professional judgment in the integration of all subdivisions of the discipline of geology necessary for the safe economic development of projects where the recognition, understanding and utilization of geologic agents, forces, and processes are required for the benefit of the public. Clarified from definition under R.S. 37:711.2.

License—the credential granted by the board signifying the holder has met the requirements as set out in the Act and is qualified to actively perform the practice of geoscience.

Membership—the board or committee members present and constituting a quorum at an official business meeting.

Party—a person admitted to participate in a case before the board.

Practice for the Public—the action of providing professional geoscience services to the public.

Professional Geoscience—a professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of geoscience principles and the interpretation of geoscience data.

Professional Geoscience Services or *Professional Geoscientific Services*—those services which must be performed by or under the direct supervision of a professional geoscientist and which meet the definition of the practice of geoscience as defined in R.S. 37:711.2.

Professional Geoscientist or *P.G.*—a person who holds a license issued by the board.

Qualifying Work Experience—a detailed description of specific geoscientific activities performed by an applicant in the course of performing his duties as a geoscientist in the practice of geoscience, including consulting, investigating, evaluating, analyzing, planning, mapping, and inspecting geoscientific work and/or the responsible supervision of those tasks.

Quorum—a simple majority of members required to be present at a meeting to be able to officially conduct business.

Reference—an individual attesting to the character and/or validating the required work experience of an applicant. The term is often used synonymously with the term "sponsor".

Reference Response—the documentation attesting to the character and/or validating the required work experience of an applicant. The term is often used synonymously with the term "letter of reference".

Registration Card—a card issued on an annual renewal basis that validates the license credential as active for the purpose of conducting the practice of geoscience in the state of Louisiana.

Rule—any board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the board and is filed with the Office of the State Register.

Sanction—a penalty imposed in a disciplinary process. An imposed disciplinary action is a sanction.

Sponsor—an individual attesting to the character and/or validating the required work experience of an applicant. The term is often used synonymously with the term "reference".

The Public—any individual(s), client(s), business or public entities whose normal course of life might reasonably include an interaction of any sort with or be impacted by geoscientific work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§103. Geoscience Disciplines

A. Geoscience license required:

1. environmental projects, as provided in R.S. 37:711.3(G);

2. engineering projects, as provided in R.S. 37:711.3(H).

B. Geoscience license not required:

1. subordinate of a licensed geoscientist, as provided in R.S. 37:711.12(D);

2. officer or employee of the United States, as provided in R.S. 37:711.12(D);

3. private industry natural resource exploration/development, as provided in R.S. 37:711.12(D);

4. research, as provided in R.S. 37:711.12(D);

5. teaching, as provided in R.S. 37:711.12(D);

6. archaeological investigation, as provided in R.S. 37:711.12(D);

7. hearing testimony or evaluation; as provided in R.S. 37:711.12(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 3. Application of Chapter

§303. Exemptions

A. Non geoscience disciplines not requiring a license unless practicing geoscience in Louisiana:

1. land surveying, as provided in R.S. 37:711.3(A);

2. engineering, as provided in R.S. 37:711.3(B), (C), (D), (E), and (F);

3. water well drilling; as provided in R.S. 37:711.3(J).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 5. The Board

§501. Meetings—Board and/or Committee

A. A quorum of members (the membership) must be physically present for official business to be recorded.

1. A motion before the membership is then carried by an affirmative vote of the majority of the voting members present.

2. The membership will determine on a case-by-case basis, the number and location of cameras and/or recording devices in order to maintain order during board/committee meetings.

B. Meetings will be conducted as public meetings under the Open Meetings Act.

1. The membership welcomes appropriate citizen input and communications at meetings, and shall provide the public a reasonable opportunity to appear and address the membership on any issue under the jurisdiction of the membership.

2. Subject to the statutory requirement of a "reasonable opportunity," the membership may limit the amount of time that each speaker may speak on a given topic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§503. Rules

A. The rules adopted by the board under the authority apply to every licensee, geoscientist-in-training, and unlicensed individual providing or offering to provide public geoscience services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 7. License/Certificate Processes

§701. Professional Geoscientist Application for Licensure

A. To be eligible for a professional geoscientist (P.G.) license, an applicant must submit the following to the board:

1. completed application;

2. documentation of having passed an examination as specified in R.S. 37:711.14 and R.S. 37:711.15(A)(4); a request for waiver from examination(s) must be accompanied by substantiating documentation to determine eligibility for waiver;

3. a minimum of three reference responses to the applicant's request for reference from sponsors as specified in R.S. 37:711.15(A)(1);

4. official transcript(s), as specified in R.S. 37:711.15(A)(2), unless the applicant is applying for the license on the basis of work experience as qualifying in lieu of educational training;

5. documentation of having met the experience requirements as specified in R.S. 37:711.15(A)(3) and R.S. 37:711.16;

6. verification of every licensure, current or expired, in any regulated profession in any jurisdiction issued to the applicant; and

7. the application/first year licensing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§703. Geoscientist-in-Training Application for Certification

A. To be eligible for a geoscientist-in-training (GIT) certification an applicant must submit the following to the board:

1. a completed application;

2. documentation of having passed an examination of the fundamentals of geology administered by the National Association of State Boards of Geology (ASBOG) as

established in R.S. 37:711.14 and R.S. 37:711.15(A)(4). A request for waiver from examination will not be considered;

3. one reference of support attesting to the individual's moral and ethical character;

4. official academic transcript as confirmation of meeting the educational requirements as established in R.S. 37:711.15(A)(2); and

5. the application/first year certification fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§705. Relationship of GIT Certification to PG Licensure

A. The geoscientist-in-training (GIT) certification is intended as a stepping stone toward licensure as individuals are gaining acceptable geoscience experience.

1. Upon accruing five years of post-graduate geoscience work experience, individuals who are GIT certified and in good standing with the board may to apply for licensure as a professional geoscientist.

a. Individuals who are certified as a geoscientist-in-training may use "GIT" or "geoscientist-in-training" as a title after their name, providing these designations are not used in conjunction with or preceded by the work "licensed" or any other words that might lead one to believe they are licensed as a professional geoscientist.

b. This certification does not entitle an individual to practice as a licensed professional geoscientist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§707. Application Review Process

A. Applications are not reviewed until the application with all supporting documentation has been received and the appropriate fee(s) have been processed.

B. Upon receipt of all required materials and fees, the application will be reviewed by the application review committee with one of the following results:

1. recommendation to the board for issuance of a credential (license/certificate);

2. recommendation to the board for denial of a credential; or

3. deficiency notice requesting additional information and/or substantiation of the application documents.

C. An application will remain active for one year beginning on the date the application is first filed with the board.

D. Application Special Circumstances

1. With the initial filing of an application or at any time that the application remains open, an applicant may request, in writing, licensure by the waiver of one or more qualifications for licensure. Upon written request and a showing of good cause, if the board determines that the applicant is otherwise qualified for a license, the board may waive a licensure requirement except for the payment of required fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 9. Minimum Requirements to Qualify for Licensure/Certification.

§901. Professional Geoscientist Licensing Requirements

A. Examinations—receive a passing score on any or all examinations required by the board covering the fundamentals and practice of the discipline of geoscience documented as specified in R.S. 37:711.14; the board may exempt applicants from the examination if applying under the grandfathering provision in R.S. 37:711.15(A)(4)(b) or for reciprocal licensure as specified in R.S. 37:711.17.

B. Education—complete the academic requirements for licensure as specified in R.S. 37:711.15.A(2); the board may accept qualifying work experience in lieu of the education requirement.

C. Ethics—submit three reference letters attesting to the good moral and ethical character of the applicant as specified in R.S. 37:711.15(A)(1) or as otherwise determined by the board.

D. Experience—document a minimum of five years of qualifying work experience during which the applicant has demonstrated being qualified to assume responsible charge of geoscientific work as specified in R.S. 37:711.15(A)(3) and R.S. 37:711.16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§903. Geoscientist-in-Training Certification Requirements

A. Examinations—submit evidence of a passing score on the fundamentals of geoscience as specified in R.S. 37:711.14 and R.S. 37:711.15(A)(4).

B. Education—complete the academic requirements for licensure as specified in R.S. 37:711.15(A)(2).

C. Ethics—submit a minimum of one reference response attesting to the good moral and ethical character of the applicant as specified in R.S. 37:711.15(A)(1) or as otherwise determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§905. Examinations

A. The examinations will be administered to applicants in a form and location determined by the board.

B. An applicant for licensure as a professional geoscientist requiring examination must pass both parts of the ASBOG test.

C. An applicant for certification as a geoscientist-in-training requiring examination must pass the fundamentals of geology examination of the ASBOG test.

D. Applicants taking the ASBOG test must also abide by the rules and regulations of ASBOG.

E. An applicant who does not timely arrive at and complete a scheduled examination will forfeit the examination fee.

F. An applicant may request an accommodation in accordance with the Americans with Disabilities Act.

1. The request must be in writing on a form approved by the board.

2. Proof of disability may be required.

G. Cheating on an examination is grounds for denial, suspension, or revocation of a license and/or an administrative penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§907. Examination Process

A. Applicants who have not passed the qualifying examination(s), as specified in R.S. 37:711.14 and R.S. 37:711.15(A)(4), may access the following procedures to sit for the necessary qualifying examination(s):

1. ASBOG fundamentals of geology examination requirement—the applicant is applying for licensure/certification and has:

a. completed the education qualifications for licensure/certification as specified in R.S. 37:711.13 and R.S. 37:711.15(A)(4); or

b. is currently enrolled in a course of study that meets the education requirements for licensure/certification and is within two regular semesters of completion of the qualifying course of study;

2. ASBOG practice of geology examination requirements—the applicant has:

a. submitted an application for licensure as a professional geoscientist with the board;

b. met all qualifications for licensure in section R.S. 37:711.15, with the exception of the examination requirement;

c. passed the ASBOG fundamentals of geology examination, but not the practice of geology examination.

B. Examination Application Procedure

1. The applicant shall complete and submit the application for geology examination, any required attachments and the appropriate fee to the board.

2. The board will review the examination application and inform the applicant of any deficiencies in the application. Upon determination that the requirements have been met, the board will mail an ASBOG examination application form to the applicant.

3. The applicant shall submit the completed ASBOG examination application form along with the examination fee to ASBOG. A copy of this examination application form shall be provided to the board.

4. The applicant shall follow all examination administration procedures and take the examination.

5. The board shall notify the applicant of the results of the examination after the board receives the results from ASBOG.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§909. Education

A. An applicant must have graduated from a course of study from an accredited university or program in geology or in one of the sub-disciplines of geoscience (as listed below) satisfactory to the board. This course must consist of at least 4 years of study and includes at least 30 semester hours or 45 quarter hours of credit in geoscience, of which at least 20 semester hours or 30 quarter hours of credit must be in upper-level college courses in that discipline. The following will qualify:

1. geology; or

2. sub-discipline of geology including but not limited to geophysics, engineering geology, petroleum geology, hydrogeology, environmental geology and soil science; or

3. other equivalent educational requirements as determined by the board.

B. It is the applicant's responsibility to request their official college transcript be sent directly from the college registrar's office to the board.

1. Official transcripts shall be forwarded directly to the board office by the applicant.

2. Additional academic information including but not limited to grades and transfer credit shall be submitted to the board at the request of the application review committee.

C. If transcripts cannot be transmitted directly to the board from the issuing institution, the application review committee may recommend alternatives to the board for its approval. Such alternatives may include validating transcripts in the applicant's possession through a board-approved commercial evaluation service.

D. Degrees and coursework earned at foreign universities shall be acceptable if the degree conferred and coursework has been determined by a member of the National Association of Credential Evaluation Services (NACES) to be equivalent to a degree conferred by or coursework completed in an accredited institution or program.

1. It is the applicant's responsibility to have degrees and coursework so evaluated.

2. The commercial evaluation of a degree shall be accepted in lieu of an official transcript only if the credential evaluation service has indicated that the credential evaluation was based on a verified official academic record or transcript.

E. The relevance to the licensing requirements of academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs, bulletins, syllabi, or by other means.

F. The board shall accept no coursework which an applicant's transcript indicates was not completed with a passing grade or for credit.

G. In evaluating two or more sets of transcripts from a single applicant, the board shall consider a quarter hour of academic credit as two-thirds of a semester hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§911. References

A. Applicants for a license shall provide to the board at least three references from professional geoscientists or other professionals acceptable to the board who have knowledge of the applicant's relevant work experience. One or more of the references shall verify the geoscience experience claimed by the applicant to meet the minimum five years of experience required. Professional geoscientists who have not worked with or directly supervised an applicant may review and judge the applicant's experience and may provide a reference for geoscience; such review

shall be noted in the reference response. Individuals providing reference responses shall not be compensated.

B. All reference/sponsors shall be individuals with personal knowledge of the applicant's character, reputation, and general suitability for holding a license. References should include one or more individuals who have directly supervised or maintained responsible charge of the applicant.

C. Professional geoscientists who provide reference statements and who are licensed in a jurisdiction other than Louisiana may be asked to provide a copy of their pocket card or other verification to confirm that their license is current and valid.

D. The references for professional geoscience work experience must be submitted in sufficient detail to allow a board reviewer to:

1. verify and document at least a minimum five year work history of geoscience experience needed by the applicant for issuance of a license,

2. recognize and verify the quality of the experience claimed during the accepted work period, and

3. attest to the moral and ethical character of the applicant.

E. The board members and staff may, at their discretion, consider any, all or none of the responses from the sponsors.

F. Procedure

1. The applicant shall submit an email request for reference including the applicable portion(s) of their experience record to each potential sponsor.

2. Applicants shall ensure all required reference responses have been submitted to the board.

G. Additional references may be required of the applicant when the application review committee finds it necessary to adequately verify the applicant's experience or character. The board and/or staff may at their discretion communicate with any reference or seek additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§913. Experience

A. The applicant must provide the board with a documented record of at least five years of qualifying work experience, as provided by R.S. 37:711.15(A)(3), that demonstrates that the applicant is qualified to assume responsible charge of geoscientific work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§915. Qualifying Work Experience

A. The work experience record shall describe the geoscience work that the applicant personally performed, and shall delineate the role of the applicant in any group geoscience activity.

B. The work experience record should provide an overall description of the nature and scope of the work with emphasis on detailed descriptions of the geoscience work personally performed by the applicant.

C. The work experience record must demonstrate evidence of the applicant's competency to be placed in responsible charge of geoscience work of a similar character.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 11. Types of Licenses

§1101. Classification

A. The classifications of a professional geoscientist license may be one of the following:

1. active—a license that is current with all fees paid, as provided in R.S. 37:711.8(F);

2. inactive—a license that is not current, i.e. renewal fees have not been paid, but has been inactive for less than one year as provided in R.S. 37:711.8(F);

3. expired—a license that has been inactive for more than one year but less than three years as provided in R.S. 37:711.8.F;

4. retired—a license that has been expired for more than three years as provided in R.S. 37:711.8(F);

5. revoked—a license that has been rescinded and nullified as a consequence of disciplinary action by the board as provided in R.S. 37:711.23.9;

6. suspended—a license that has been discontinued and rendered invalid for some period pending further disciplinary action by the board as provided in R.S. 37:711.23.9;

7. temporary—a license issued for temporary qualified professional geoscience service work in Louisiana as provided in R.S. 37:711.18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§1103. Reciprocal license

A. Licensure by Reciprocity Agreement

1. Licensure by reciprocity agreement is the process whereby an individual currently licensed as a professional geoscientist (or equivalent license) in another United States jurisdiction (state, commonwealth or territory) applies for reciprocity licensure as a professional geoscientist in Louisiana, or the process whereby an individual currently licensed as a professional geoscientist in Louisiana applies for reciprocity licensure as a professional geoscientist (or equivalent license) in another United States jurisdiction (state, commonwealth or territory).

2. After reciprocity agreements are established, any applicant who holds a current license in a jurisdiction with which the board has a reciprocity agreement may apply for licensure under the terms of the specific reciprocity agreement between the two boards.

3. A person who is licensed or registered to practice a discipline of geoscience under the law of another state, a territory or possession of the United States, the District of Columbia, or a foreign country which has a reciprocity agreement with the board may apply to the board for licensure without meeting the examination requirements of R.S. 37:711.14.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§1105. Issuance of License

A. The board shall issue a license to an applicant who meets the requirements of this Chapter. The applicant shall be licensed with a unique professional geoscientist license number assigned to the license.

B. When a license is issued, a license credential and the first registration card are provided to the new licensee. The license credential is not valid proof of licensure unless the registration card is accompanying the license credential and the date on the registration card is not expired.

C. The license credential shall include all of the following:

1. the full name of the license holder;
2. the licensee's unique professional geoscientist license number;
3. the date the license was originally issued;
4. a signature of an appropriate officer of the board under the board's seal.

D. The registration card shall include all of the following:

1. the full name of the license holder;
2. the licensee's unique professional geoscientist license number;
3. the date the license will expire;
4. a signature of an appropriate officer of the board under the board's seal.

E. A license that is renewed late (one day after the expiration date of the license through the end of the 36th month past the expiration date of the license) is renewed in accordance to the rules set forth in R.S. 37:711.20.

F. The issuance by the board of a license is prima facie evidence that during the term of the license the license holder is entitled to all the rights and privileges of a licensed geoscientist.

G. A licensed geoscientist may engage in the practice of any discipline of geoscience.

H. A license number is not transferable.

I. Altering a license credential or registration card in any way is prohibited and is grounds for a sanction and/or penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§1107. Expiration and Renewals

A. A professional geoscientist license expires and shall become inactive at the end of the month one year from the date of issuance, but can be renewed annually if the individual:

1. accumulates 15 or more of personal development hours (PDH) throughout the prior certification year to include one hour of ethics training;
2. remains in good standing with the board; and
3. files for renewal of a PG license and pays the fee established by the board.

B. A geoscientist-in-training certificate expires and shall become inactive at the end of the month one year from the date of issuance, and can be renewed annually, if the individual:

1. accumulates five or more of personal development hours (PDH) throughout the prior certification year to include one hour of ethics training;
2. remains in good standing with the board; and
3. files for renewal of GIT certification and pays the fee established by the board.

C. A geoscientist-in-training (GIT) certification may only be renewed annually for a period of up to eight years. Renewals after the eighth year of certification will only be granted at the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§1109. License/Certificate Renewal and Reinstatement

A. The executive secretary of the board will mail a renewal notice and the requirements for renewal to the last recorded address of each license/certificate holder, at least 30 days prior to the expiration date of the license. Regardless of whether the renewal notice is received, it is the sole responsibility of the license/certificate holder to apply for renewal and to pay any applicable fee(s).

1. An applicant may renew a current license/certificate up to 60 days in advance of its expiration.
2. Licenses/certificates become inactive the day after their expiration date.
3. The renewal fee for a license that is renewed within 60 days of inactivation is the fee in place at the time the license was due to expire.
4. A completed renewal application including applicable fees received or postmarked 61 days after the license/certificate expiration date is considered late. The then current application fee increase will be assessed in addition to a late penalty fee.
5. A license/certificate that has been inactive for 12 months but less than 3 years after the expiration date is considered expired but may be renewed by submitting to the board a renewal application, the annual renewal fee for each year missed plus the current year's renewal fee, and the late penalty fee. An expired license/certificate may be renewed within three years of the expiration date by paying all delinquent fees.
6. A license/certificate that has been expired for a period greater than three years after the expiration date is considered permanently retired and may not be renewed. The former license holder may re-apply for a new license as provided by the Act at the time of re-application.

B. The board may refuse to renew a license/certificate if the license/certificate holder is the subject of a lawsuit regarding his/her practice of geoscience or is found censurable for a violation of board laws or rules that would warrant such disciplinary action under R.S. 37:711.23.

C. Licensees must complete a statement of affirmation indicating whether the licensee practiced as a P.G. during the period when the license was inactive/expired. Information regarding unlicensed non-exempt public geoscience practice received under this section shall be referred to the compliance committee for appropriate action that could include the initiation of a complaint by the board.

D. As per R.S. 37:711.23, the board may suspend or revoke a license/certificate as disciplinary action against a license/certificate holder who is found censurable for a violation or rules.

1. A license/certificate that has been suspended can be reinstated by the board only if the suspended license/certificate holder complies with all conditions of the suspension, which may include payment of fines, continuing education requirements, participation in a peer review program or any other disciplinary action outlined in the Act.

2. A license/certificate that has been revoked can be re-instated only if a majority vote by the board approves reinstatement, after the applicant:

a. re-applies and submits all required application materials and fees;

b. successfully completes an examination in the discipline of geoscience if the applicant has not previously passed said examination(s); and

c. provides evidence to demonstrate competency and that future compliance with the Act and rules of the board.

E. A license/certificate holder is exempt from any increased fee or other penalty imposed in this Section for failing to renew the license in a timely manner if the license holder provides adequate documentation, including copies of orders, to establish to the satisfaction of the board that the license holder failed to renew in a timely manner due to active duty service in the United States Armed Forces outside of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

§1111. Replacement License/Certificate Credential or License Registration Cards

A. A new or duplicate license/certificate credential, or a new registration card to replace one lost, destroyed, or mutilated, may be issued, subject to the rules of the board, upon payment of the established fee(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 13. Continuing Education Program (CEP)

§1301. Requirements

A. Each license holder shall meet the continuing education program (CEP) requirements for professional development by earning professional development credit hours (PDH) as a condition for license renewal.

1. Every P.G. license holder is required to obtain 15 PDH hours of continuing education credit per year for license renewal.

2. A minimum of one PDH hour per renewal period must be in the area of professional ethics, roles and responsibilities of professional geoscientists.

3. If a license holder exceeds the annual requirement in any renewal period, a maximum of 30 PDH hours may be carried forward into subsequent renewal periods, but not beyond three years. Credits earned more than three years prior to the renewal year will not be accepted for fulfilling continuing education requirements.

B. Definition of Terms. Terms used in this Section are as follows.

Accredited Continuing Education Unit (ACEU)—unit of credit customarily used for ACEU. One ACEU equals 10 hours (10 PDH) of class in the accredited continuing education course.

College Semester Hour (CSH)/College Quarter Hour (CQH)—credit for a college course in a discipline of geoscience or other related technical elective of the discipline. One CSH equals 15 hours (15 PDH) of class in a college semester course. One CQH equals 10 hours (10 PDH) of class in a college quarter course.

Continuing Education Course/Activity (CECA)—any course/activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the license holder's field of practice. One CECA hour equals one PDH.

Professional Development Hour (PDH)—a contact hour (clock hour) of CEP activity. The PDH is the basic unit for CEP reporting. One hour equals one PDH.

C. Earned Credits

1. All activities described in this Subsection shall be relevant to the practice of a discipline of geoscience and may include technical, ethical, or managerial content. The following activities will earn PDH credits pending board approval at the time of audit:

a. successful completion, auditing or teaching/instructing of college credit courses (CSH/CQH). Credit for college or community college approved courses will be based upon course credit established by the college;

b. successful completion or teaching/instructing of continuing education courses (ACEU or CECA), either offered by a professional or trade organization, university or college, or offered in-house by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group;

c. successful completion or teaching/instructing of correspondence, on-line, televised, videotaped, and other short courses/tutorials (CSH/CQH, ACEU or CECA);

d. registered attendance or teaching/instructing of seminars, courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences sponsored by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group (CECA).

i. Credit for qualifying seminars, short courses and workshops will be based on one PDH credit for each hour of attendance.

ii. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH credits for the actual time of each program.

iii. A maximum of 12 PDH credits can be earned at society meetings each renewal period.

2. Teaching or instructing as listed in Paragraphs 1-4 of this Subsection will earn triple PDH credits. Teaching credit is valid for teaching a course or seminar for the first time only.

3. Authoring (as lead author) Published Papers, Articles, Books, or Accepted Licensing Examination Items. Credit determination for authorship as described in this subsection is the responsibility of the license holder and subject to review as required by the board. Maximum 10 PDH per paper and 45 PDH per book.

4. Active Participation (CECA) in Professional or Technical Societies, Associations, Agencies, or Organizations in activities such as those described below. PDH credits are not earned until the end of each year of

service is completed. Maximum of five PDH per renewal period:

a. serving as an elected or appointed official of the organization;

b. serving and actively participating on a committee of the organization; or

c. serving in other official positions such as making or attending a presentation at a meeting or writing a paper presented at a meeting.

5. Engaging in Self-Directed Course Work (ACEU or CECA). Credit determination for self-directed course work is the responsibility of the license holder and subject to review as required by the board. Credit for self-directed course work will be based on one PDH credit for each hour of study and is not to exceed five PDH per renewal period.

6. Patents issued—maximum 15 PDH per patent.

7. Software programs published—maximum 15 PDH per program.

D. Determination of Credit

1. The board shall be the final authority with respect to whether a course or activity meets the requirements of this Chapter.

2. It is the responsibility of each license holder to use his/her best professional judgment by reading and utilizing the rules and regulations to determine whether all PDH credits claimed and activities being considered meet the continuing education requirement. However, a course provider may contact the board for an opinion for whether or not a course or technical presentation would meet the CEP requirements.

E. Record Keeping

1. The license holder is responsible for maintaining records to be used to support credits claimed. CEP records for each license holder must be maintained for a period of three years by the license holder. Records required include, but are not limited to:

a. a log, on a form provided by the board, showing the type of activity claimed, the sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits claimed; and

b. attendance verification records in the form of completion certificates, receipts, attendance roster, or other documents supporting evidence of attendance.

F. CEP Audit

1. The records for each license holder are subject to audit by the board or its authorized representative.

a. The license holder must submit CEP certification on the log form provided by the board and a list of each activity, date, and hours claimed that satisfy the CEP requirement for that renewal year when audited. A percentage of the licenses will be randomly audited each year.

b. Copies must be furnished, if requested, to the board or its authorized representative for audit verification purposes.

c. If upon auditing a license holder, the board finds that the activities cited do not fall within the bounds of educational, technical, ethical, or professional management activities related to the practice of geoscience; the board may require the license holder to acquire additional PDH credits as needed to fulfill the minimum CEP requirements before said license will be renewed.

G. Exemptions

1. A license holder may be exempt from the professional development educational requirements for one of the following reasons.

a. A license holder serving on active duty and deployed outside the United States, its possessions and territories, in or for the military service of the United States for a period of time exceeding 120 consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.

b. A license holder employed outside the United States, its possessions and territories, actively engaged in the practice of geoscience for a period of time exceeding 300 consecutive days in a year shall be exempt from obtaining the professional development hours required during that year except for five hours of self-directed course work.

c. License holders experiencing long term physical disability or illness may be exempt. Supporting documentation must be furnished to the board.

H. Noncompliance

1. If a license holder does not certify that CEP requirements have been met for a renewal period, the license shall be considered expired and subject to late fees and penalties.

2. A license holder may bring an expired license to active status by obtaining all delinquent PDH units. However, if the total number required to become current exceeds 30 units, then 30 units shall be the maximum number required.

3. A determination by audit that CEP requirements have been falsely reported shall be considered to be misconduct and will subject the license holder to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 15. Seal

§1501. Use of Seals

A. License holders must obtain a seal as per R.S. 37:711.22.

B. The following rules for the use of seals to identify work performed by a professional geoscientist shall be binding on every licensee.

1. Seal Possession

a. Each professional geoscientist, upon licensure, shall obtain an official seal.

i. In the case of a temporary permit issued to a licensee of another jurisdiction, the licensee shall affix the seal of his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

2. Seal Responsibility

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge. The licensee shall be personally and professionally responsible and accountable for the care, custody, control and use of his/her seal, professional signature and identification. A seal which has been lost, misplaced or stolen shall, upon discovery of its loss, be reported immediately to the board by the licensee. The board may

invalidate the licensure number of said licensee, if it deems this necessary, and issue another licensure number to the licensee.

3. Seal Use

a. The licensee shall affix his/her seal, sign his/her name, and place the date of execution on all documents that have been issued by the licensee to a client or any public or governmental agency as completed work.

4. Electronic Transmission

a. Documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee is transmitted in a secure mode that precludes the seal, signature and date being produced or modified.

b. Originally-sealed documents which no longer require a seal may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of licensee and license number) on (date of sealing). This document should not be considered a certified document."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 17. Fees

§1701. Payment of Fees

A. The board fees are non-refundable and are in accordance with the limits specified in R.S. 37:711.13(D) and 711.20(C):

1. initial application and license fee—$200;
2. examination processing fee of $25 and examination fee as determined by ASBOG;
3. issuance of a revised or duplicate license—$25;
4. renewal fee—$150. The fee for annual renewal of licensure for any person 60 years of age or older as of the renewal date shall be $100;
5. late renewal fee—$50;
6. fee for affidavit of licensure—$15;
7. verification of licensure—$15;
8. temporary license—$200;
9. insufficient funds fee—$25;
10. initial application for geoscientist-in-training certificate—$100;
11. annual renewal of geoscientist-in-training certificate—$75.

B. Charges for providing copies of public information are those provided in LAC 4:I.301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Chapter 19. Disciplinary proceedings

§1901. Disciplinary and Enforcement Proceedings

A. Any disciplinary or enforcement proceedings initiated by or with the board will be governed by the substantive and procedural provisions of the licensure law and by the provisions of the APA (R.S. 49:950 et seq.).

B. Disciplinary proceedings against licensees and certificate holders are subject to R.S. 37:711.23.

C. Disciplinary proceedings against nonlicensees or noncertificate holders are subject to R.S. 37:711.24.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8(C)(1) and R.S. 37:711.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Board of Professional Geoscientists, through its chairman, has considered the potential family impact of creating LAC 46:LXII.

It is accordingly concluded that creating LAC 46:LXII 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 Board of Professional Geoscientists, through its chairman, has considered the potential poverty impact of creating LAC 46:LXII.

It is accordingly concluded that creating LAC 46:LXII 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

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 does not require compliance or reporting from small businesses.

2. The Establishment of Less Stringent Deadlines for Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed Rule does not require compliance or reporting from small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed Rule does not require compliance or reporting from 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 does not require compliance or reporting from small businesses.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. The proposed Rule does not require compliance or reporting from small businesses.

Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Board of Professional Geoscientists, through its chairman, has considered the potential provider impact of creating LAC 46:LXII. It is accordingly concluded that creating LAC 46:LXII would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the costs to the provider to provide the same level of service;

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit comments relative to these proposed rules, through August 10, 2015, to Georgeann McNicholas, Executive Secretary of the Louisiana Board of Professional Geoscientists, at 9643 Brookline Ave., Ste. 101, Baton Rouge, LA 70809.

Dr. Madhurendu Bhushan Kumar
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Geoscientists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rules of the newly created Board of Professional Geoscientists provide for the rules and requirements needed for licensure of geoscientists within Louisiana. Pursuant to R.S. 37:711.8.C(1), these new administrative rules codify current practices as the board has been operating within the proposed parameters since 2014. Due to the board already operating within these administrative rules, the only costs associated with the proposed rules will be publishing costs. For context, the Board's current annual budget is approximately $225,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative rules require the Board of Professional Geoscientists to collect an initial application and license fee of $200 with an annual renewal fee of $150 for those 59 years of age and below and $100 for those 60 and older. The Board estimates there will be 400 new licenses in 2015, generating $80,000 while renewals of current licenses are projected to generate an additional $120,000. There are also late fees, temporary license fees, and examination fees that will also be used to generate revenue, but are not necessarily mandatory for members to obtain. These administrative rules merely codify current practices as the board has been operating within the proposed parameters since 2014. For context, the Board collected approximately $270,000 in revenue in 2014.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rules provide for the governing framework of the Board of Professional Geoscientists. The individuals impacted by the board's existence include practicing geoscientists and new geoscientists requesting to operate in Louisiana. However, due to the board already operating within these administrative rules since 2014, there will be no direct impact to non-governmental groups as a result of the proposed administrative rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will have no effect on competition and employment as this merely codifies current practices.

Madhurendu Bhushan Kumar	Evan Brasseaux
Chairman	Staff Director
1507#062	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Compounding for Office Use for Veterinarians
(LAC 46:LIII.2535)

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 §2535 of Chapter 25, Prescriptions, Drugs, and Devices, of its rules, to allow pharmacies to compound medications for office use, but only for veterinarians.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 25. Prescriptions, Drugs, and Devices
Subchapter C. Compounding of Drugs
§2535. General Standards

A. - D. …

E. Veterinarian Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.

2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding

pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5 percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

F. Compounding Commercial Products not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the federal Food and Drug Administration (FDA) and/or the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian administered compounds, the label shall contain, at a minimum, the following data elements:

a. pharmacy's name, address, and telephone number;

b. veterinarian's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

f. beyond use date;

g. special storage requirements, if applicable;

h. identification number assigned by the pharmacy; and

i. name or initials of pharmacist responsible for final check of the preparation.

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 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), LR 41:

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.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. 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 effect on child and dependent care, housing, health care, nutrition, transportation, and 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 minimum standards for quality and safety for compounded medications are federal in origin and replicated in the board's rules. There are no provisions for less stringent requirements for small businesses.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule allows, but does not require, pharmacies to compound medications for office use for veterinarians. The existing Rule stipulates the minimum standards for quality and safety, which mirror the federal standards.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

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, August 26, 2015 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 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Compounding for Office Use for Veterinarians

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a cost of approximately $2,000 for printing costs of the proposed and final rules in FY 16. The proposed rule authorizes pharmacies to compound medications for office use for veterinarians according to standards and limitations identified in the proposed rule.

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)

The proposed rule directly affects those pharmacies which elect to compound medications for office use for veterinarians. While the existing rule identifies the minimum standards for quality and safety, the proposed rule authorizes compounding drugs for office use for veterinarians but limits the amount of these medications that a pharmacy may compound to not exceed 5% of the total amount of drug products dispensed or distributed. The costs and benefits associated with compounding for office use for veterinarians are similar to those for compounding medications for patient-specific prescriptions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent a pharmacy may elect to engage in the activity authorized by the proposed rule and develops a market for that activity, there could be a positive effect on employment.

Malcolm Broussard
Executive Director
1507#064

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Electronic Signature on Facsimile Prescription
(LAC 46:LIII.2511)

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 §2511 of Chapter 25, Prescriptions, Drugs, and Devices, of its rules, to allow pharmacies to accept, for a limited period of time, a facsimile prescription bearing an electronic signature of the prescriber.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 25. Prescriptions, Drugs, and Devices
Subchapter B. Prescriptions
§2511. Prescriptions

A. - C.5.c. …

d. The provisions of this Section notwithstanding, a prescription for a medication not listed as a controlled substance which is received in a pharmacy by facsimile and which bears an electronic signature of the prescriber shall be construed as a validly-formatted prescription; however, this temporary allowance shall expire at midnight on December 31, 2016.

C.6. - F. …

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), amended LR 29:2102 (October 2003), effective January 1, 2004, LR 41:98 (January 2015), LR 41:

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.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. 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 effect on child and dependent care, housing, health care, nutrition, transportation, and 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. There are no reporting requirements in the proposed Rule. Pharmacies are not required at this time to accept electronic prescriptions; however, the market is continuing to evolve in that direction.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule allows, but does not require, pharmacies to accept electronic prescriptions.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

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, August 26, 2015 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 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Signature on Facsimile Prescription

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a cost of approximately $2,000 for printing costs of the proposed and final rules in FY 16. The proposed rule will allow pharmacies to continue to accept facsimile prescriptions bearing electronic signatures of the prescriber, but only for a limited period of time ending December 31, 2016.

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)

The proposed rule directly affects those pharmacies which do not yet accept electronic prescriptions. The proposed rule also affects prescribers using prescription generating software systems that do not alert the prescriber when the electronic prescription generated and signed by the prescriber cannot be delivered to the intended pharmacy because it is unable to accept electronic prescriptions, and then further, converts the prescription to a facsimile format for delivery without alerting the prescriber. The time delay in the proposed rule is intended to give pharmacies additional time to upgrade their systems to accept electronic prescriptions, and further, to give vendors (and clients of those vendors) of prescription generating software additional time to upgrade their systems to notify the prescriber when their electronic prescriptions cannot be delivered electronically and to prohibit the subsequent conversion of that prescription for delivery to the pharmacy by facsimile.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment from the proposed rule.

Malcolm J. Broussard Executive Director 1507#065	Gregory V. Albrecht Chief Economist Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Remote Access to Medical Orders
(LAC 46:LIII.1503 and 1527)

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 Chapter 15, Hospital Pharmacy, of its rules by drafting a new §1527, Remote Access to Medical Orders, to allow hospital pharmacies to enable their own pharmacists to remotely access the hospital's dispensing information system from any location for the purpose of processing medical orders.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.* * *

Remote Processing Services—Repealed.

Remote Processor—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 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, LR 33:1132 (June 2007), LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, LR 41:

§1527. Remote Access to Medical Orders

A. Notwithstanding any provision of rules to the contrary, nothing shall prohibit a Louisiana-licensed pharmacist who is an employee of or under contract with a hospital pharmacy in Louisiana from accessing that pharmacy's dispensing information system from a location other than the pharmacy in order to process prescription drug orders or medical orders, but only when all of the following conditions are satisfied:

1. the pharmacy establishes controls to protect the privacy and security of confidential records;

2. the pharmacist does not engage in the receiving of written prescription drug orders or medical orders or the maintenance of prescription drug orders or medical orders; and

3. no part of the pharmacy's dispensing information system is duplicated, downloaded, or removed from the pharmacy's dispensing information 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 41:

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.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. 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 effect 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 does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule identifies the operational standards for the hospital pharmacy to establish remote access for its pharmacists, but there is flexibility in how the small business achieves compliance with those standards.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

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, August 26, 2015 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 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Remote Access to Medical Orders

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a cost of approximately $2,000 for printing costs of the proposed and final rules in FY 16. The proposed rule will authorize pharmacist practicing at hospital pharmacies to access their pharmacy's dispensing information system from any location outside the pharmacy for the purpose of processing medical orders.

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)

The proposed rule will allow hospital pharmacies to enable their pharmacists to access the pharmacy's dispensing information system from any location outside the pharmacy for the purpose of processing medical orders. The proposed rule requires the establishment of policies and procedures to protect the privacy and security of confidential records. There may or may not be additional costs for the creation or maintenance of systems or procedures to facilitate the remote access to pharmacists. To the extent such pharmacies may currently be contracting with outside firms for the remote processing of their medical orders, this proposed rule may provide a more economical option by allowing either existing staff or new staff to remotely process those orders from their homes or other locations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will authorize hospital pharmacies to allow their staff pharmacists to remotely access the pharmacy's dispensing information system from any location outside the pharmacy. This capability has the potential of replacing current contracts with other pharmacies for the purpose of remotely processing medical orders, which could have a positive effect on competition and employment.

Malcolm J. Broussard
Executive Director
1507#068

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Remote Processor Permit
(LAC 46:LIII.1143, 2431, 2433, 2435 and 2437)

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 Section 1143 and adopt Subchapter D—Remote Processor Pharmacy, of Chapter 24, that will enable the establishment of remote processor pharmacy sites within the state.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 11. Pharmacies
Subchapter D. Off-Site Services
§1143. Remote Processing of Medical Orders or Prescription Drug Orders

A. - A.2.a. …

b. Repealed.

B. - C.2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1132 (June 2007), amended LR 38:1240 (May 2012), LR 39:313 (February 2013), LR 41:

Chapter 24. Limited Service Providers
Subchapter D. Remote Processor Pharmacy
§2431. Purpose

A. The purpose of this Subchapter is to establish standards for the operation and regulation of remote processor pharmacies to be located within the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

§2433. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

On-Site Pharmacy—a permitted pharmacy which utilizes remote processing services from a remote processor pharmacy.

Remote Processing Services—the processing of a medical order or prescription drug order by one permitted pharmacy on behalf of another permitted pharmacy, including:

a. receipt, interpretation, or clarification of an order;

b. data entry and information transfer;

c. interpretation of clinical data;

d. performance of drug utilization review; and

e. provision of drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Processor—a pharmacy holding a remote processor pharmacy permit and provides remote processing services for another permitted pharmacy,

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

§2435. General Requirements

A. Authority and Limitations

1. A remote processor pharmacy permit shall authorize the permit holder to engage in remote processing services.

2. A remote processor pharmacy permit shall not authorize the procurement or possession of any prescription medications or any controlled substances.

3. The holder of a remote processor pharmacy permit shall not be eligible to acquire a Louisiana controlled dangerous substance license or a federal registration from the U.S. Drug Enforcement Administration.

B. Licensing Procedure

1. A person or other entity intending to operate a remote processor pharmacy shall complete the application form supplied by the board, and then submit it with any required attachments and the application fee to the board.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. A person or other entity who submits a false or fraudulent application shall be deemed to have violated R.S. 37:1241(A)(2) and shall be subject to disciplinary action by the board.

4. If determined appropriate by the board, the applicant may be required to meet with a committee of the board or an agent of the board prior to the issuance of the permit.

5. Regardless of the date issued, the pharmacy permit shall expire on December 31 of every year. No person or other entity may operate a remote processor pharmacy with an expired permit; the continued operation of a remote processor pharmacy with an expired permit shall substantiate a violation of R.S. 37:1241(A)(12).

C. Maintenance of Permit

1. A remote processor pharmacy permit shall be valid only for the person or other entity to whom it is issued, and it shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the physical location for which it was issued.

2. A duplicate or replacement permit shall be issued upon the written request of the permit holder and payment of the required fee. A duplicate or replacement permit shall be marked as such, and it shall not serve or be used as an additional or second permit.

D. Closure of Permit

1. When the owner of the permit intends to close the remote processor pharmacy permanently, the owner's managing officer and the pharmacist-in-charge shall be accountable to the board for the proper closure of the pharmacy in compliance with Section 1133 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

§2437. Standards of Practice

A. Environmental Standards

1. The remote processor pharmacy shall be of sufficient size and shall contain sufficient fixtures, equipment, and supplies commensurate with the nature and scope of practice for that pharmacy.

2. The pharmacy shall be well-lighted, well ventilated and in compliance with the Louisiana *Sanitary Code*.

3. The pharmacy shall be secured by either a physical barrier with suitable locks and/or an electronic barrier to detect entry by any unauthorized personnel.

4. Prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information.

B. Staffing Requirements

1. The pharmacist-in-charge shall be a Louisiana-licensed pharmacist who is accountable to the board for compliance with the provisions of Section 1105 of the board's rules.

2. The pharmacist-in-charge shall assemble and manage a staff of appropriately-credentialed people as necessary to perform its work in a safe manner.

3. For those pharmacies using pharmacy interns, pharmacy technicians, and pharmacy technician candidates, the staffing ratios cited in the board's rules are applicable to those types of personnel.

C. Operations

1. The remote processor pharmacy shall comply with the provisions of Section 1143 of the board's rules.

2. The remote processor shall comply with the recordkeeping provisions of Section 1123 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

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.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. 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 effect 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 does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule identifies the operational standards for the remote processor pharmacy site, but there is flexibility in how the small business achieves compliance with those standards.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

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, August 26, 2015 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 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Remote Processor Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a cost of approximately $2,000 for printing costs of the proposed and final rules in FY 16. The proposed rule will create a new classification of limited services pharmacy permit, for the purpose of enabling the establishment of remote processor pharmacy sites.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule may result in an indeterminable increase in fees and self-generated revenues to the Board of Pharmacy. The cost of a new pharmacy permit is set at $150 by statute while a renewal permit is set at $125. The Board of Pharmacy does not anticipate issuing a large number of permits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will create a new classification of pharmacy permit known as remote processor pharmacy sites. This type of pharmacy permit will not be authorized to procure or possess drugs for dispensing to patients, but they will be authorized to provide clinical services for other pharmacies, specifically the remote processing of medical orders or prescriptions for other pharmacies. The cost to establish and operate this type of pharmacy will be substantially less than the cost to operate a basic community pharmacy due to the absence of drug costs; however, there could be significant technology or communication costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will enable the establishment of remote processor pharmacy sites within the state which has the potential to facilitate competition with such sites located in other states as well as the potential for a positive effect on employment.

Malcolm J. Broussard
Executive Director
1507#067

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Telepharmacy Services Permit
(LAC 46:LIII.Chapter 24)

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 adopt Subchapter C, Telepharmacy Services of Chapter 24, Limited Service Providers, of its rules to create a new classification of pharmacy permit that will enable the establishment of telepharmacy dispensing sites.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 24. Limited Service Providers
Subchapter C. Telepharmacy Services

§2421. Purpose

A. As market forces continue to adversely impact community pharmacies, some pharmacies have or will close permanently. In certain parts of the state, such closures create critical access issues for citizens in need of pharmacy services.

B. As the pharmacy workforce continues to evolve, with changing patterns of distribution of the workforce, certain parts of the state have experienced a shortage of pharmacists, which can adversely impact access to pharmacist care.

C. In an effort to improve access to pharmacist care and pharmacy services, the board has determined it appropriate to establish standards for the operation and regulation of telepharmacy services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

§2423. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

Central Pharmacy—a permitted pharmacy in Louisiana that supervises a telepharmacy dispensing site.

Still Image Capture—a specific image captured electronically from a video or other image capture device.

Store and Forward—a video or still image record which is saved electronically for future review.

Telepharmacy Dispensing Site—a permitted pharmacy supervised by a central pharmacy that offers pharmacy services using a telepharmacy system.

Telepharmacy System—a system that monitors the dispensing of prescription drugs and provides for related drug use review and patient counseling services by an

electronic method which shall include the use of the following types of technology:

a. audio and video;

b. still image capture; and

c. store and forward.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

§2425. Telepharmacy Dispensing Site

A. General Requirements

1. At the time of its opening, there shall be no other pharmacies licensed by the board within 20 miles (driving distance) of the location of the telepharmacy dispensing site.

2. A telepharmacy dispensing site permit shall authorize the permit holder to procure and possess prescription and non-prescription drugs and devices and:

a. hold such items for immediate administration directly to a patient pursuant to an order from a lawful prescriber;

b. dispense such items to a patient for later use upon the order of a practitioner with prescriptive authority; or

c. distribute such items to another entity with lawful authority to procure and possess such items.

3. In the event the telepharmacy dispensing site intends to procure and possess any controlled substances, that pharmacy shall first obtain a Louisiana controlled dangerous substance license as well as the federal registration from the U.S. Drug Enforcement Administration.

4. The telepharmacy dispensing site shall operate using a telepharmacy system under the control of its supervising central pharmacy.

5. A central pharmacy may supervise no more than two telepharmacy dispensing sites, and all such sites must be located within the state of Louisiana.

6. The minimum staffing requirement for a telepharmacy dispensing site shall be a Louisiana-licensed certified pharmacy technician with at least two years of experience as a Louisiana-licensed certified pharmacy technician and with demonstrated proficiency in operating the telepharmacy system used in the telepharmacy dispensing site.

7. A pharmacist shall approve each prescription before it is taken away from the telepharmacy dispensing site.

B. Licensing Procedure

1. A person or other entity intending to operate a telepharmacy dispensing site shall complete the application form supplied by the board, and then submit it with any required attachments and the application fee to the board.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. A person or other entity who submits a false or fraudulent application shall be deemed to have violated R.S. 37:1241(A)(2) and shall be subject to disciplinary action by the board.

4. If determined appropriate by the board, the applicant may be required to meet with a committee of the board or an agent of the board prior to the issuance of the permit.

5. Regardless of the date issued, the pharmacy permit shall expire on December 31 of every year. No person or other entity may operate a telepharmacy dispensing site with an expired permit; the continued operation of a telepharmacy dispensing site with an expired permit shall substantiate a violation of R.S. 37:1241(A)(12).

6. In the event a new community pharmacy opens at a location within 20 miles (driving distance) of the telepharmacy dispensing site, then the board shall not renew the telepharmacy dispensing site's pharmacy permit. The board shall notify the central pharmacy supervising the telepharmacy dispensing site of the new pharmacy operating within 20 miles (driving distance) of the telepharmacy dispensing site, and of the requirement for the telepharmacy dispensing site to close permanently on or before the expiration date of the telepharmacy dispensing site's current renewal of its pharmacy permit. The closure shall be accomplished in compliance with the provisions of Section 1133 of the board's rules. In lieu of permanent closure, the telepharmacy dispensing site may elect to apply for and complete the conversion of its permit to a community pharmacy permit prior to the expiration date of the telepharmacy permit.

C. Maintenance of Permit

1. A telepharmacy dispensing site permit shall be valid only for the person or other entity to whom it is issued, and it shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the physical location for which it was issued.

2. A duplicate or replacement permit shall be issued upon the written request of the permit holder and payment of the required fee. A duplicate or replacement permit shall be marked as such, and it shall not serve or be used as an additional or second permit.

D. Closure of Permit

1. When the owner of the permit intends to close the telepharmacy dispensing site permanently, the owner's managing officer and the pharmacist-in-charge shall be accountable to the board for the proper closure of the pharmacy in compliance with Section 1133 of the board's rules.

2. Unless approved by the board in advance, all remaining inventory and records shall be transferred to the central pharmacy supervising that telepharmacy dispensing site.

E. Standards of Practice

1. Environmental standards:

a. the prescription department shall consist of an area at least 300 square feet in size; this space shall be restricted to authorized personnel only and not accessible to the general public;

b. the prescription department shall contain sufficient fixtures, equipment, and supplies commensurate with the nature and scope of practice for that pharmacy;

c. the prescription department shall include a sink with a hot and cold water supply, exclusive of restroom facilities, with approved sewage disposal;

d. all areas where drugs and devices are stored shall be dry, well-lighted, well ventilated, and maintained at

temperatures which will ensure the integrity of drugs prior to their dispensing as stipulated by the United States Pharmacopeia and/or manufacturer's or distributor's product labeling unless otherwise indicated by the board;

e. the prescription department shall be secured by a physical barrier with suitable locks and a monitored alarm system capable of detecting unauthorized entry;

f. prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information; and

g. the dispensing site shall be configured and equipped to sustain optimal operation of all the technological components of the telepharmacy system.

2. Minimum Staffing Requirements

a. The pharmacist-in-charge of the supervising central pharmacy shall be the pharmacist-in-charge of the telepharmacy dispensing site, and this requirement shall operate as an exception to the provisions of §1105.A.2 and §1105.K of the board's rules. However, the pharmacist-in-charge shall comply with the remaining provisions of Section 1105 of the board's rules.

b. The telepharmacy dispensing site does not require the personal presence of a pharmacist, but it is permissible for a pharmacist to practice in that site.

c. In the absence of a pharmacist, the site shall be staffed by one, and only one, Louisiana-licensed certified pharmacy technician. The technician present at the telepharmacy dispensing site shall be included with the other personnel at the supervising central pharmacy when calculating the ratio of pharmacists to technicians.

d. A pharmacy intern may not practice at a telepharmacy dispensing site.

e. Additional clerical personnel may also be present at the site.

3. Operational Standards

a. The telepharmacy dispensing site shall comply with the provisions of Chapters 11, 25, 27, and 29 of the board's rules except when this Subchapter grants exceptions or imposes more stringent requirements.

b. The telepharmacy dispensing site shall be connected to its supervising central pharmacy using the telepharmacy system.

c. In the event of an interruption in the proper operation of the telepharmacy system, the telepharmacy dispensing site must immediately cease operations. No prescription shall be dispensed during the interruption, and further, the staff shall post a sign at the entrance advising the public of an estimated date or time of resumption of services.

d. The dispensing of prescriptions shall be construed as completed at the central pharmacy; therefore, the telepharmacy dispensing site shall use the central pharmacy's dispensing information system.

e. The telepharmacy system shall permit prescription labels to be generated from the central pharmacy or the telepharmacy dispensing site:

i. new prescriptions may be received and entered at the central pharmacy with a label printed at the telepharmacy dispensing site; or

ii. new prescriptions received at the telepharmacy dispensing site may be entered by the technician with all verification, utilization review, and final check the responsibility of the pharmacist at the central pharmacy.

f. As part of the final check, the pharmacist shall verify the source container, prescription medication, and prescription label against the prescription form, using the technology in the telepharmacy system.

g. A pharmacist shall counsel the patient or patient's agent for all new prescriptions and refills, using the technology in the telepharmacy system.

h. The pharmacist-in-charge shall be responsible for routine inspections of the telepharmacy dispensing site. The policies and procedures shall identify the inspection criteria to be monitored. Each inspection shall be conducted no later than 30 days after the previous inspection. The inspection reports detailing the findings of each inspection shall be retained for at least two years, and further, shall be readily retrievable upon request by the board or its agent.

4. Recordkeeping Requirements

a. The dispensing information system shall be capable of recording the names or initials of the pharmacist responsible for final verification of the prescription as well as the technician assisting in the dispensing process, and to print those identities on the prescription label.

b. Prescriptions filled at the telepharmacy dispensing site shall be distinguishable on records from those filled at the central pharmacy

c. Records of activities at the telepharmacy dispensing site shall be distinguishable from the records of activities at the central pharmacy.

d. Telepharmacy dispensing sites holding controlled substances shall maintain a perpetual inventory of controlled dangerous substances and drugs of concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:

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.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. 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. To the extent a remote telepharmacy dispensing site can be established in an area of the state within which there are no pharmacies currently in operation, we anticipate improved access to pharmacist care and pharmacy services, which should have a positive effect on child and dependent health care.

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 does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule identifies the operational standards for the remote dispensing site, but there is flexibility in how the small business achieves compliance with those standards.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

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, August 26, 2015 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 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Telepharmacy Services Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a cost of approximately $2,000 for printing costs of the proposed and final rules in FY 16. The proposed rule will create a new classification of limited services pharmacy permit, for the purpose of enabling the establishment of telepharmacy dispensing sites.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule may result in an indeterminable increase in fees and self-generated revenues to the Board of Pharmacy. The cost of a new pharmacy permit is set at $150 by statute while a renewal permit is set at $125. The Board of Pharmacy does not anticipate issuing a large number of permits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will directly affect those existing pharmacies which intend to establish remote telepharmacy dispensing sites. The proposed rule identifies the general requirements, licensing procedures, and operational standards. The cost to establish and operate a telepharmacy dispensing site should be less than that to establish a basic community pharmacy; however, the requirement to use telepharmacy technology to link the telepharmacy dispensing site with its central pharmacy will add to the operational cost of the central pharmacy. The benefits of a telepharmacy dispensing site will accrue to the citizens of that part of the state where there is little or no current access to pharmacist care or pharmacy services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent a telepharmacy dispensing site can be established in a location where there are no other pharmacies within a certain radius, the proposed rule may have a positive effect on employment.

Malcolm J. Broussard	Gregory V. Albrecht
Executive Director	Chief Economist
1507#066	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Case Management
Licensing Standards
(LAC 48:I.4929)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.4929 in the Medical Assistance Program as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary amended the provisions governing the licensing standards for providers of case management services (*Louisiana Register*, Volume 20, Number 8). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services (OAAS) adopted provisions to establish standards for participation for support coordination agencies that provide support coordination/case management services to participants in OAAS-administered waiver programs (*Louisiana Register*, Volume 39, Number 11). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which established Medicaid reimbursement for targeted case management services provided to Medicaid-eligible foster children by the Department of Children and Family Services (DCFS) (*Louisiana Register*, Volume 41, Number 6). The department subsequently promulgated an Emergency Rule which amended the licensing standards governing providers of case management services to exempt OAAS support coordination service providers and DCFS foster care and family support workers from these licensing standards since OAAS and DCFS will provide certification for support coordination/case management services rendered by their workers (*Louisiana Register*, Volume 41, Number 6). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2015 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 49. Case Management
§4929. General Waiver

A. - C. ...

D. DHH Office of Aging and Adult Services Case Management

1. Agencies that provide case management and/or support coordination services to the DHH Office of Aging and Adult Services (OAAS) wavier programs recipients shall be exempt from licensure as a case management agency for the provision of case management services. This licensure exemption shall only be to the extent that the agency uses only DHH/OAAS trained and certified case managers to provide case management services to OAAS waiver programs in lieu of DHH licensure. Such agencies serving other populations and programs, in addition to those waiver programs operated by OAAS, shall obtain and maintain DHH licensure.

2. OAAS certification requirements shall ensure:

a. the quality of services and the care, well-being, and protection of the clients receiving services; and

b. that the delivery of case management services does not afford less quality or protection than the licensing provisions of this Chapter.

3. OAAS shall provide an attestation of meeting these requirements on an annual basis or as required by the DHH Health Standards Section.

4. OAAS case management and support coordination services will still be subject to the support coordination standards of participation rule for OAAS waiver programs, the program integrity/SURS (fraud/abuse) rules, and other applicable Medicaid rules and regulations.

E. Department of Children and Family Services Case Management

1. The Department of Children and Family Services (DCFS) shall be exempt from licensure as a case management agency for the provision of targeted case management services rendered by foster care and family services workers. The licensure exemption shall only be to the extent that DCFS uses trained and certified employees to provide case management services in lieu of DHH licensure.

2. DCFS certification requirements shall ensure:

a. the quality of services and the care, well-being, and protection of the clients receiving services; and

b. that the delivery of case management services does not afford less quality or protection than the licensing provisions of this Chapter.

3. DCFS shall provide an attestation of meeting these requirements on an annual basis.

4. DCFS case management services will still be subject to the Medicaid targeted case management rules, the program integrity/SURS (fraud/abuse) rules and other applicable Medicaid rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 20:888 (August 1994), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this

proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, August 27, 2015 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: Case Management 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 15-16. It is anticipated that $648 (SGF) will be expended in FY 15-16 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 proposed rule continues the provisions of the July 1, 2015 Emergency Rule which amended the licensing standards governing providers of case management services to exempt Office of Aging and Adult Services (OAAS) support coordination service providers and Department of Children and Family Services (DCFS) foster care and family support workers from these licensing standards. It is anticipated that implementation of this proposed rule will have no economic costs or benefits to case management agencies for FY 15-16, FY 16-17, and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Section Director	Staff Director
1507#086	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Emergency Medical Transportation Services
Ambulance Licensing Standards
(LAC 48:I.Chatper 60)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.6001, 6037, and 6057 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1231 and R.S. 40:1235.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the minimum licensing standards for ambulance and emergency medical response vehicle services, including ground and air transportation (*Louisiana Register*, Volume 35, Number 3). This Rule clarified and repromulgated the provisions of the April 20, 1998 rules for the purpose of adopting these provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

House Concurrent Resolution (HCR) 92 of the 2015 Regular Session of the Louisiana Legislature directed the department to amend the provisions governing the licensing standards for ambulance service providers to establish protocols relative to the assessment and transport of patients with cardiac and stroke emergencies. In compliance with the directives of HCR 92, the department proposes to amend the provisions governing the licensing standards for emergency medical transportation services.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 60. Emergency Medical Transportation Services
Subchapter A. General Provisions
§6001. Definitions

* * *

Appropriate Facility—an institution generally equipped to provide the needed hospital or skilled nursing care for the illness or injury involved. In the case of a hospital, a physician or a physician specialist is available to provide the necessary care required to treat the patient's condition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:466 (March 2009), amended LR 41:

Subchapter B. Provider Responsibilities

§6037. Medical Protocol

A. - B. ...

C. These protocols shall include protocols for the care of:

1. - 3. ...

4. suspected cardiogenic chest pain or suspected myocardial infarction;

5. stroke or suspected stroke;

6. - 9. ...

10. unconsciousness or altered mental status;

11. suspected drug overdose;

12. treatment induced unconsciousness, altered mental status, hypotension, or respiratory depression from physician ordered or protocol appropriate paramedic administered narcotics;

13. respiratory failure or respiratory arrest;

14. active seizure;

15. hospital patient destination;

16. pre-hospital diversion;

17. patient with advanced directives;

18. mass casualty incidents;

19. injuries from weapons of mass destruction;

20. pediatric specific care; and

21. traumatic injuries.

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network or develop an agency-specific protocol with specific language related to the transportation of the following patients.

1. Acute stroke patients shall be transported to the closest appropriate comprehensive stroke center, primary stroke center, or acute stroke ready hospital, or to the closest appropriate hospital if the patient exhibits a compromise of airway, breathing, or circulatory function.

2. Patients suffering an acute ST elevation myocardial infarction (STEMI) shall be transported to the closest appropriate STEMI receiving center or, when appropriate, a STEMI referring center.

3. Repealed.

E. All protocols shall:

1. meet or exceed the requirements of these licensing standards and all applicable federal, state, and local laws;

2. be consistent with the national standard EMS scope of practice and the rulings of the Louisiana EMS Certification Commission;

3. be reviewed annually by the licensed agency's medical director, or the parish medical society; and

4. be submitted to the department no more than 30 days after the implementation of the protocol.

F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

G. Ambulance services must produce, and provide to all personnel, a policy and procedures manual governing the service's operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:476 (March 2009), amended LR 41:

Subchapter C. Emergency Vehicles—Ground Transportation

§6057. Ambulances

A. - B.5.l. ...

m. one roll per crew member, chemical sealant tape (not duct tape); and

B.5.n. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:480 (March 2009), amended LR 41:

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 and autonomy as described in R.S. 49:972 as it will aid in improving death outcomes and reducing disability occurrences by providing vital emergency medical transportation services for cardiac and stroke patients.

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 who incur costs associated with cardiac and stroke emergencies since these provisions are expected to improve the health outcomes of cardiac and stroke patients.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, August 27, 2015 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: Emergency Medical Transportation Services—Ambulance 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 15-16. It is anticipated that $756 (SGF) will be expended in FY 15-16 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 is being promulgated to comply with the directives of House Concurrent Resolution 92 of the 2015 Regular Session of the Louisiana Legislature, which authorizes and directs the department to amend the provisions governing the licensing standards for ambulance service providers to establish protocols for the assessment and transport of cardiac and stroke patients. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to emergency medical transportation providers for FY 15-16, FY 16-17, and FY 17-18 since the required licensing fees have not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Section Director	Staff Director
1507#087	Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the ROW to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department subsequently promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the developmental disabilities request for services registry (*Louisiana Register*, Volume 37, Number 6). This proposed Rule is being promulgated to continue and clarify the provisions of the May 20, 2011 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 13. Residential Options Waiver
Chapter 161. General Provisions
§16101. Introduction

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

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16103. Program Description

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

B. ROW offers an alternative to institutional care that:

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

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

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

4. Repealed.

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

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

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

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

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

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

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16105. Participant Qualifications

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

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

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

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

4. be a resident of Louisiana; and

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

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

1. - 3.c. Repealed.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16106. Money Follows the Person Rebalancing Demonstration

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

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

B. Participants must meet the following criteria for participation in the MFP rebalancing demonstration.

1. Participants with a developmental disability must:

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

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

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

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

D. All other ROW provisions apply to the money follows the person rebalancing demonstration.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16107. Programmatic Allocation of Waiver Opportunities

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

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

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

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

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

1. persons who meet the ICF/ID level of care and are being serviced through the OCDD host home contracts;

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

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

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

i. homeless;

ii. at imminent risk of losing current residential placement;

iii. referred by the judicial system;

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

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

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

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

3. children who:

a. are from birth to age 18;

b. reside in a nursing facility;

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

d. participate in the MFP rebalancing demonstration; and

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

4. persons who reside in a Medicaid-enrolled ICF/ID and wish to transition to a home and community-based residential services waiver through a voluntary ICF/ID bed conversion process;

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

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

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

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

C.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16109. Admission Denial or Discharge Criteria

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

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

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

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

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

5. The individual resides in another state.

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

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

8. Repealed.

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

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

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

3. loss of developmental disability system eligibility;

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

5. change of residence to another state;

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental

Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

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

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

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

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals or other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.
   a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

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

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

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.
2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan, Medicare, or any other third party insurance is excluded from coverage.
3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

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

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all of the applicable vendor standards and requirements for manufacturing, design and installation of technological equipment and supplies;
2. furnish written documentation of authorization to sell, install, and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and
3. provide documentation of individual employees' training and experience with the application, use, fitting, and repair of the equipment or devices which they propose to sell or repair;
   a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16303. Community Living Supports

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

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

1. ...
2. socialization skills training;
   a. Repealed.
3. cognitive, communication tasks, and adaptive skills training; and
   a. Repealed.
4. development of appropriate, positive behaviors.
   a. - b. Repealed.

C. Place of Service. CLS services are furnished to adults and children who live in a home that is leased or owned by the participant or his family. Services may be provided in the home or community, with the place of residence as the primary setting.

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

1. An agreement must be reached among all of the involved participants, or their legal guardians, regarding the provisions of shared CLS services.
2. The health and welfare of each participant must be assured though the provision of shared services.

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

4. A shared rate must be billed.

E. Service Exclusions

1. ...

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

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

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

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

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

a. - d. Repealed.

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

a. shared living;

b. home host; or

c. companion care.

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

a. day habilitation;

b. prevocational;

c. supported employment;

d. respite out-of-home services; or

e. transportation-community access.

F. ...

1. Family members who provide CLS services must meet the same standards as providers who are unrelated to the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16305. Companion Care

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

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

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

3. Repealed.

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

1. - 2. Repealed.

C. Provider Responsibilities

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

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

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

a. arranging the delivery of services and providing emergency services as needed;

b. making an initial home inspection of the participant's home, as well as periodic home visits as required by the department;

c. contacting the companion a minimum of once per week or as specified in the participant's POC; and

d. providing 24-hour oversight and supervision of the companion care services, including back-up for the scheduled and unscheduled absences of the companion.

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

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:

a. participating in and abiding by the POC;

b. ...

c. purchasing his/her own food and personal care items.

E. Service Limits

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

F. Service Exclusions

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

a. respite care service–out of home;

b. shared living;

c. community living supports; or

d. host home.

2. - 2.d. Repealed.

G. Provider Qualifications. The provider agency must be licensed as a personal care attendant agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16307. Day Habilitation Services

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

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

2. ...

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

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

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

3. - 4. ...

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

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

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

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

e. no rounding up of hours is allowed.

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

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

2. - 4.c. Repealed.

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

E. Service Exclusions

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

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

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

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

a. community living supports;

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

c. respite care services–out of home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16309. Dental Services

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

1. diagnostic services (radiographs, complete series including bitewing);

2. preventative services (comprehensive oral examination, new patient or periodic oral examination patient of record); and

3. prophylaxis-adult (cleanings).

4. - 10. Repealed.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16311. Environmental Accessibility Adaptations

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

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

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

1. assessments to determine the types of modifications that are needed;

2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;

3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and

4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

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

1. - 4. ...

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

1. the participant is renting or leasing the property; and

2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

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

a. host home; or

b. shared living settings which are provider owned or leased.

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

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

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or

b. to purchase or lease a vehicle.

2. Vehicle modifications which are of general utility and are not of direct medical or remedial benefit to the participant are not covered in the ROW.

3. - 4. ...

I. Provider Responsibilities

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

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all of the applicable standards of manufacture, design and installation for all adaptations to the vehicle.

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

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

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

a. In addition, these providers must:

i. meet the applicable state and/or local requirements governing their licensure or certification; and

ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16313. Host Home

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

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;

2. assistance to develop leisure interests and daily activities in the home setting;

3. assistance to develop relationships with other members of the household;

4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and

5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

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

1. arranging for a host home;

2. making an initial inspection and periodic inspections of the host home and upon any significant changes in the host family unit or significant events which may impact the participant; and

3. providing 24-hour oversight and supervision of host home services including emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;

2. maintaining and providing data to assist in the evaluation of the participant's personal goals;

3. maintaining adequate records to substantiate service delivery and producing such records upon request;

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

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

6. - 10. Repealed.

E. ...

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

1. Host home contractors that serve adults who have been interdicted must ensure that services are furnished in accordance with the legal requirements of the interdiction.

G. Host home contractors who are engaged in employment outside the home must adjust these duties to allow the flexibility needed to meet their responsibilities to the participant.

H. Host Home Capacity. Regardless of the funding source, a host home contractor may not provide services for more than two participants in the home.

I. Service Exclusions

1. Separate payment will not be made for community living supports since these services are integral to, and inherent in, the provision of host home services.

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

a. respite care services-out of home;

b. shared living;

c. shared living-conversion; or

d. companion care.

3. ...

J. Provider Qualifications

1. All agencies must:

a. have experience in delivering therapeutic services to persons with developmental disabilities;

b. have staff who have experience working with persons with developmental disabilities;

c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and

d. provide on-going assistance to the host home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16315. Intensive Community Supports

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2448 (November 2007) , repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

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

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

3. Repealed.

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

1. - 2. ...

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

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

D. Provider Qualifications

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

E. Staffing Requirements

1. ...

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

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

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

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

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

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

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

a. volunteer nursing experience; or

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16319. One Time Transitional Services

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

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

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

2. set up fees for utilities;

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

a. bedroom and living room furniture;

b. table and chairs;

c. window blinds; and

d. food preparation items and eating utensils;

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

5. moving expenses; and

6. health and safety assurances including:

a. pest eradication; or

b. one-time cleaning prior to occupancy.

C. Service Limits

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

D. Service Exclusions

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

a. housing, rent or refundable security deposits; or

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

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

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

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16321. Personal Emergency Response System (PERS)

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

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

1. ...

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

3. do not have 24-hour direct supervision.

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

D. Service Exclusions

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

E. Provider Qualifications

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16323. Prevocational Services

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

1. Prevocational services should focus on teaching concepts and skills such as:

a. - e. ...

2. The primary focus of prevocational services is the acquisition of employment related skills based on the individual's vocational preferences and goals.

a. - b. ...

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

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

a. conduct 6-month formal reviews to determine the suitability of this service rather than supported employment services;

b. - c. ...

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

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

a. Repealed.

D. Service Limits

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

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

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

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

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

d. no rounding up of hours is allowed.

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

3.a. - 5.a. Repealed.

E. Service Exclusions

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

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

a. community living supports;

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

c. respite care services–out of home.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16325. Professional Services

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

1. - 8.a. Repealed.

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

1. occupational therapists;
2. physical therapists;
3. speech therapists;
4. registered dieticians;
5. social workers; and
6. psychologists.

C. Professional services may be utilized to:

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

a. - b. Repealed.

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

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

a. Repealed.

4. provide consultative services and recommendations;

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

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

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

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

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

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

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and *Guidelines for Support Planning*.

D. Service Exclusions

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

a. Repealed.

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

a.- d. Repealed.

E. Provider Qualifications

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

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

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

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

2. Provider agency enrollment of professional services.

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

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

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

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

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

i. employing the professionals; or

ii. contracting with the professionals.

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

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

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

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

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

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

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

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

a. volunteer experience; or

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16327. Respite Care Services–Out of Home

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

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

a. The rate for respite care services–out of home includes the transportation costs for the community activities.

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

B. Service Limits

1. Respite Care Services are limited to 720 hours per participant, per POC year.

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

C. Service Exclusions

1. ...

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

a. shared living;

b. companion care; or

c. host home.

d. Repealed.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16329. Shared Living Services

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

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

a. 24-hour staff availability;

b. assistance with activities of daily living included in the participant's POC;

c. a daily schedule;

d. health and welfare needs;

e. transportation;

f. any non-residential ROW services delivered by the Shared Living services provider; and

g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

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

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

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

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

C. Shared Living Options

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

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

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

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

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

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

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

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

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

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

D. Service Exclusions

1. ...

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

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

a. - d. Repealed.

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

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

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

a. community living supports;

b. respite care services;

c. companion care;

d. host home; or

e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16331. Specialized Medical Equipment and Supplies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007) , repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16333. Support Coordination

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16335. Supported Employment

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

1. - 3. Repealed.

B. Supported employment services include:

1. ...

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

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. assistance in the development of a business plan, including potential sources of business financing and other assistance in developing and launching a business;

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

iv. ...

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

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

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

C. Service Limits

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

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

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

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

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

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

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

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

D. Service Exclusions

1. ...

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

3. Supported employment services cannot be billed for the same time as any of the following services:

a. community living supports;

b. professional services except direct contacts needed to develop a behavioral management plan; or

c. respite care services–out of home.

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

5. ...

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

6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:

a. - c. ...

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

8. No rounding up of hours is allowed.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16337. Transportation-Community Access

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

community access shall be offered as documented in the participant's approved POC.

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

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

a. - b. ...

B. Service Limits

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

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

a. Repealed.

C. Service Exclusions

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

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

a. shared living services; or

b. community living services.

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

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

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

a. the state minimum automobile liability insurance coverage;

b. a current state inspection sticker; and

c. a current valid driver's license.

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

a. - b. Repealed.

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

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

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

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

E.1 - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

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

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

1. - 2. ...

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

i. the application of a comprehensive monitoring strategy and risk assessment and management systems; and

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

3. participation in the development and management of the approved personal purchasing plan.

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

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

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

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

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

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

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

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

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

i. ...

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

iii. - iv. ...

D. Employees of participants in the self-direction service option are not employees of the fiscal agent or the Department of Health and Hospitals.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 167. Provider Participation

§16701. General Provisions

A. In order to participate in the Medicaid Program as a provider of services in the Residential Options Waiver, a provider must:

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

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

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

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

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

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

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

a. - c. ...

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16703. Staffing Restrictions and Requirements

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

1. parents of minor children;

2. spouses for each other;

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

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

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

1. Relatives must also comply with the following requirements:

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

b. become a Medicaid enrolled provider agency; or

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

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

ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

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

1. respite care;

2. housing stabilization transition;

a. - b. Repealed.

3. housing stabilization;

a. - f. Repealed.

4. community living supports (CLS);

a. up to three participants may share CLS services if they share a common provider of this service;

b. there is a separate reimbursement rate for CLS when these services are shared;

5. professional services furnished by a/an:

a. psychologist;

b. speech therapist;

c. physical therapist;

d. occupational therapist;

e. social worker; or

f. registered dietician;

6. support coordination; and

7. supported employment:
   a. individual placement; and
   b. micro-enterprise.

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

1. environmental accessibility adaptations; and

a. Upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates.

2. assistive technology/specialized medical equipment and supplies.

3. Repealed.

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

1. ...
2. companion care living services; and
3. ...

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

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

1. day habilitation;
2. pre-vocational; and
3. supported employment;
   a. mobile crew; and
   b. enclave.

E. ...

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

G. ...

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

I. - J. ...

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

1. The following services shall be excluded from the rate reduction:
   a. personal emergency response services;
   b. environmental accessibility adaption services;
   c. specialized medical equipment and supplies; and
   d. support coordination services.

L. - L.1.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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:

§16903. Direct Support Staff Wages

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

1. community living supports;
2. respite services-out of home;
3. shared living;
4. day habilitation;
5. prevocational services; and
6. supported employment.
7. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

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 and autonomy as described in R.S. 49:972 by improving access to, and the quality of, 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 health care cost to families through improved access to waiver services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, August 27, 2015 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—Residential Options Waiver

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 $23,629 for FY 15-16, $1,719,141 for FY 16-17 and $2,047,837 for FY 17-18. It is anticipated that $8,856 ($4,428 SGF and $4,428 FED) will be expended in FY 15-16 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 62.17 in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

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 $35,984 for FY 15-16, $2,813,263 for FY 16-17 and $3,351,153 for FY 17-18. It is anticipated that $4,428 will be expended in FY 15-16 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 62.17 in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the May 1, 2010, August 1, 2010, August 20, 2010, and May 20, 2011 Emergency Rules which amended the provisions governing the Residential Options Waiver (ROW) in order to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity, reduce reimbursement rates, adopt criteria for crisis diversion, revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the developmental disabilities request for services registry. It is anticipated that implementation of this proposed rule will increase Medicaid program expenditures for ROW services by approximately $50,757 for FY 15-16, $4,532,404 for FY 16-17 and $5,398,990 for FY 17-18. The current year costs will be absorbed by existing resources.

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
1507#088

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Residential Options Waiver
Permanent Supportive Housing Services
(LAC 50:XXI.16339, 16341, and 16901)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to adopt LAC 50:XXI.16339 and 16341, and to amend §16901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, through collaborative efforts, provide enhanced long-term services and supports to individuals with developmental disabilities through the Residential Options Waiver (ROW) program. The department now proposes to amend the Rule governing the ROW in order to adopt provisions for the coverage of housing stabilization transition and housing stabilization services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 13. Residential Options Waiver
Chapter 163. Covered Services
§16339. Housing Stabilization Transition Services

A. Housing stabilization transition services enable participants who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. This service is provided while the participant is in an institution and preparing to exit the institution using the waiver. Housing stabilization transition services include:

1. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type, location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including:

a. access to housing;
b. meeting the terms of a lease;
c. eviction prevention;
d. budgeting for housing/living expenses;
e. obtaining/accessing sources of income necessary for rent;
f. home management;
g. establishing credit; and

h. understanding and meeting the obligations of tenancy as defined in the lease terms;

2. assisting the participant to view and secure housing as needed, including:

a. arranging or providing transportation;

b. assisting in securing supporting documents/records;

c. completing/submitting applications;

d. securing deposits; and

e. locating furnishings);

3. developing an individualized housing support plan, based upon the housing assessment, that:

a. includes short- and long-term measurable goals for each issue;

b. establishes the participant's approach to meeting the goal; and

c. identifies where other provider(s) or services may be required to meet the goal;

4. participating in the development of the plan of care and incorporating elements of the housing support plan; and

5. exploring alternatives to housing if permanent supportive housing is unavailable to support completion of transition.

B. This service is only available upon referral from the support coordinator, and is not duplicative of other waiver services, including support coordination. It is only available to persons who reside in a state of Louisiana permanent supportive housing unit, or who are linked for the state of Louisiana permanent supportive housing selection process.

C. Participants may not exceed 165 combined units of this service and the housing stabilization service without written approval from OCDD.

AUTHORITY NOTE: 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 41:

§16341. Housing Stabilization Services

A. Housing stabilization services enable waiver participants to maintain their own housing as set forth in the participant's approved plan of care. Services must be provided in the home or a community setting. Housing stabilization services include the following components:

1. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type, location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including:

a. access to housing;

b. meeting the terms of a lease;

c. eviction prevention;

d. budgeting for housing/living expenses;

e. obtaining/accessing sources of income necessary for rent;

f. home management;

g. establishing credit; and

h. understanding and meeting the obligations of tenancy as defined in the lease terms;

2. participating in the development of the plan of care, incorporating elements of the housing support plan;

3. developing an individualized housing stabilization service provider plan, based upon the housing assessment, that:

a. includes short- and long-term measurable goals for each issue;

b. establishes the participant's approach to meeting the goal; and

c. identifies where other provider(s) or services may be required to meet the goal;

4. providing supports and interventions according to the individualized housing support plan (if additional supports or services are identified as needed outside the scope of housing stabilization service, the needs must be communicated to the support coordinator);

5. providing ongoing communication with the landlord or property manager regarding:

a. the participant's disability;

b. accommodations needed; and

c. components of emergency procedures involving the landlord or property manager;

6. updating the housing support plan annually or as needed due to changes in the participant's situation or status; and

7. if at any time the participant's housing is placed at risk (i.e., eviction, loss of roommate or income), housing stabilization service will provide supports to retain housing or locate and secure housing to continue community-based supports, including locating new housing, sources of income, etc.

B. This service is only available upon referral from the support coordinator. Housing stabilization is not duplicative of other waiver services, including support coordination. It is only available to persons who reside in a state of Louisiana permanent supportive housing unit.

C. Participants may not exceed 165 combined units of this service and the housing stabilization transition service without written approval from OCDD.

AUTHORITY NOTE: 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 41:

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

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

1. respite care;

2. housing stabilization transition;

a. - b. Repealed.

3. housing stabilization;

a. - f. Repealed.

4. community living supports (CLS);

a. up to three participants may share CLS services if they share a common provider of this service;

b. there is a separate reimbursement rate for CLS when these services are shared;

5. professional services furnished by a/an:

a. psychologist;

b. speech therapist;

c. physical therapist;

d. occupational therapist;

e. social worker; or

f. registered dietician;

6. support coordination; and

7. supported employment:

a. individual placement; and

b. micro-enterprise.

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

1. environmental accessibility adaptations; and

a. Upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates.

2. assistive technology/specialized medical equipment and supplies.

3. Repealed.

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

1. …

2. companion cares living services; and

3. …

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

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

1. day habilitation;

2. pre-vocational; and

3. supported employment:

a. mobile crew; and

b. enclave.

E. …

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

G. …

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

I. - J. …

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

1. The following services shall be excluded from the rate reduction:

a. personal emergency response services;

b. environmental accessibility adaption services;

c. specialized medical equipment and supplies; and

d. support coordination services.

L. - L.1.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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:

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 and autonomy as described in R.S. 49:972 by improving access to stable home setting.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule 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 improving access to a stable home setting.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, August 27, 2015 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: Home and Community-Based Services Waivers—Residential Options Waiver Permanent Supportive Housing 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 $1,591 for FY 15-16, $8,081 for FY 16-17 and $11,892 for FY 17-18. It is anticipated that $1,296 ($648 SGF and $648

FED) will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately $2,198 for FY 15-16, $13,224 for FY 16-17 and $19,461 for FY 17-18. It is anticipated that $648 will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the Rule governing the Residential Options Waiver in order to adopt provisions for the coverage of housing stabilization transition and housing stabilization services. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid program for ROW services by approximately $2,493 for FY 15-16, $21,305 for FY 16-17 and $31,353 for FY 17-18.

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 1507#089	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:I.9704, 9707, and Chapter 99)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9704, 9707, and Chapter 99 in the Medical Assistance Program as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing nursing facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment (*Louisiana Register*, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter A. General Provisions

§9704. Alzheimer's Special Care Disclosure

A. - D.5. ...

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9707. Approval of Plans

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted for approval to the Department of Public Safety, Office of the State Fire Marshal for review in accordance with R.S. 40:1563(L), R.S.40:1574 and LAC 55:V:Chapter 3.

1. Plans and specifications for new construction, major alterations, and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by the Louisiana architecture and engineering licensing laws of R.S. 37:141 et seq., R.S. 37:681 et seq., and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. DHH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. the Office of the State Fire Marshal's requirements for plan submittals and compliance with all codes required by that office.

2.a - 3. Repealed.

C. Notice of satisfactory review from the department and the Office of the State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

C.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), amended LR 41:

Chapter 99. Nursing Homes
Subchapter A. Physical Environment
§9901. General Provisions

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter A prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health and Hospitals, asking that the provision be waived and providing an alternative to the licensing provision of this Subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the LAC Title 51, *Public Health—Sanitary Code* shall be submitted in writing to the state health officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9903. Nurse/Care Team Work Areas

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with secured storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9905. Resident Rooms

A. ...

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of State Fire Marshal prior to January 20, 1998, there shall be at least 3 feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

G. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9907. Resident Room Furnishings

A. ...

1. a clean supportive frame in good repair;

2. - 5. ...

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to January 20, 1998, each resident shall be provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. Nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to May 1, 1997, shall be exempt from this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9909. Locked Units, Restraints and Seclusion

A. Locked Units

1. Nursing facilities may have specific locked units for housing residents suffering from severe dementia or Alzheimer's disease. The locked units may only house, limit and restrict free access of those residents suffering from severe dementia or Alzheimer's who may be a danger to themselves or others.

2. Nursing facilities providing locked units shall develop admission criteria. There shall 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.

3. Guidelines for admission shall be provided to the resident, his/her family and his/her authorized representative.

4. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The locked unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms.

b. The dining space shall contain tables for eating within the locked unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the locked unit.

5. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

6. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

7. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's needs.

8. All staff designated to provide care and services on locked units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the special needs of the residents on the unit.

9. Admission to a locked unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9911. Hand-Washing Stations, Toilet Rooms and Bathing Facilities

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

Table. Repealed.

1. A minimum of 1 bathtub, shower, or whirlpool unit shall be provided for every 10 residents, or fraction thereof, not otherwise served by bathing facilities in resident rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

D. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9913. Dining and Resident Activities

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9915. Linen and Laundry

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. - G. ...

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9917. Equipment and Supplies

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9919. Other Environmental Conditions

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a

loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, shall meet the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sanitization of cooking and food service dishes and other utensils and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100˚F, nor more than 120˚F, at the faucet outlet. Supply system design shall comply with the Louisiana state *Plumbing Code* and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to a minimum of 71˚F in the coldest weather and capable of being cooled to a maximum of 81˚F in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6' to 10' candelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' candelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

L. - R. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, August 27, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $2,484 (SGF) will be expended in FY 15-16 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections 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 proposed Rule continues the provisions of the May 20, 2014 Emergency Rule which amended the licensing standards governing nursing facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment. It is anticipated that the implementation of this proposed rule will have no economic costs or benefits to nursing facilities in FY 15-16, FY 16-17, and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Section Director	Staff Director
1507#090	Legislative Fiscal Office

NOTICE OF INTENT

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

School Based Behavioral Health Services
(LAC 50:XXXIII.Chapter 41 and
4301, 4303, 4501, and 4703)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 41-47 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 Behavioral Health currently provide school based behavioral health services to children and youth through a coordinated behavioral health services system under the Louisiana Medicaid Program.

The department now proposes to amend the provisions governing school based health services in order to transition these services out of managed care and into the group of school based Medicaid services provided by local education agencies.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 5. School Based Behavioral Health Services

Chapter 41. General Provisions

§4101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for school based behavioral health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals.

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, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§4103. Recipient Qualifications

A. …

B. Qualifying children and adolescents must have been determined eligible for Medicaid and behavioral health services covered under Part B of the Individuals with Disabilities Education Act (IDEA), with a written service plan (an IEP) which contains medically necessary services recommended by a physician or other licensed practitioner, within the scope of his or practice under state law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 43. Services

§4301. General Provisions

A. - C. …

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:
   a. delivered in a culturally and linguistically competent manner; and
   b. respectful of the individual receiving services.
2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.
3. Services shall also be appropriate for:
   a. age;
   b. development; and
   c. education.

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary 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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§4303. Covered Services

A. - B.3. …

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:384 (February 2015), LR 41:

Chapter 45. Provider Participation

§4501. Local Education Agency Responsibilities

A. - B. ...

C. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department.

D. Providers of behavioral health services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

E. Anyone providing behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license. The provider shall create and maintain documents to substantiate that all requirements are met.

F. Providers shall maintain case records that include, at a minimum:

1. a copy of the treatment plan;
2. the name of the individual;
3. the dates of service;
4. the nature, content and units of services provided;
5. the progress made toward functional improvement; and
6. the goals of the treatment plan.

G. - G.6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012) amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:385 (February 2015), LR 41:

Chapter 47. Payments

§4703. Cost Calculations

A. ...

B. For each of the IDEA related school based services other than specialized transportation services, the participating LEA's actual cost of providing the services will be claimed for Medicaid reimbursement.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, August 27, 2015 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: School Based Behavioral Health Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $864 ($432 SGF and $432 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $432 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing school based health services in order to transition the adjudication of behavioral health claims by local education agencies from the single statewide management organization back to the Department's fiscal intermediary, consistent with the department's policy for physical health claims by local education agencies. It is anticipated that the implementation of this proposed rule will have no economic cost or benefits for Louisiana Education Agencies in FY 15-16, FY 16-17, and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1507#091

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 51—Individual Health Insurance Rating Requirements (LAC 37:XIII.Chapter 27)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal Regulation 51—Individual Health Insurance Rating Requirements.

The purpose of Regulation 51 was to facilitate the implementation of R.S. 22:228.6. The intent of R.S. 22:228.6 was to establish a modified community rating system for health care premiums in the state. Adherence to the Rule by individual health and accident insurance carriers would bring carriers into compliance with R.S. 22:228.6. However, due to the amendment and reenactment of R.S. 22:972, R.S. 22:1091 through 1099, and pursuant to section 2794 of the Public Health Service Act (42 USC 300gg-94), 45 CFR Part 154, and any federal regulation issued in accordance with such federal law, Regulation 51 is no longer needed. Therefore, Regulation 51 is being repealed in its entirety.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 27. Regulation 51—Individual Health Insurance Rating Requirements

§2701. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10 and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:314 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2703. Applicability and Scope

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10 and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:314 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2705. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10 and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:314 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2707. Restrictions on Premium Rates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10 and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:314 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2709. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10 and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:314 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulations should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulations should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulations should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulations should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulations should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed regulations should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulations should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulations should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulations should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulations should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulations should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulations 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 regulations that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulations on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed regulations should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulations should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed regulations should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed regulations should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulations will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulations will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed regulations will have no effect.

Public Comments

Interested persons may submit written comments on the proposed repeal of Regulation 51 until 5 p.m., August 13, 2015, to Zata Ard, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 51—Individual Health Insurance Rating Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. LAC 37:XIII.Chapter 27 - Regulation 51 codified certain requirements as set forth in La. R.S. 22:228.6, which was to establish a modified community rating system for health care premiums in the state. However, due to the amendments adopted during the 2014 Regular Session of the Louisiana Legislature to La. R.S. 22:972 and La. R.S. 22:1091 through 1099, and pursuant to Section 2794 of the Public Health Service Act (42 USC 300gg-94), 45 CFR Part 154, and any federal regulation issued in accordance with such federal law, Regulation 51 is no longer required. Therefore, Chapter 27 - Regulation 51 is being repealed in its entirety.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed repeal of Regulation 51 will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed repeal of Regulation 51 will have no impact on economic costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed repeal of Regulation 51 will have no impact upon competition and employment in the state.

Denise Brignac
Deputy Commissioner
1507#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 52—Small Group Health Insurance Rating Requirements (LAC 37:XIII.Chapter 29)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal Regulation 52—Small Group Health Insurance Rating Requirements.

The purpose of Regulation 52 was to facilitate the implementation of R.S. 22:228.2 and 22:228.6. The intent of R.S. 22:228.2 was to restrict premium rate increases and the intent of R.S. 22:228.6 was to establish a modified community rating system for health care premiums in the state. Adherence to the rule by small employer health and accident insurance carriers would bring them into compliance with R.S. 22:228.2 and R.S. 22:228.6. However, due to the amendment and reenactment of R.S. 22:972, R.S. 22:1091 through 1099, and pursuant to section 2794 of the Public Health Service Act (42 USC 300gg-94), 45 CFR Part 154, and any federal regulation issued in accordance with such federal law, Regulation 52 is no longer needed. Therefore, Regulation 52 is being repealed in its entirety.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 29. Regulation 52—Small Group Health Insurance Rating Requirements

§2901. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10, 22:228.2, and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:315 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2903. Applicability and Scope

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10, 22:228.2, and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:315 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2905. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10, 22:228.2, and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:315 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2907. Restrictions on Premium Rates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10, 22:228.2, and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:315 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

§2909. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 655 of the 1993 Regular Legislative Session and R.S. 22:10, 22:228.2, and 22:228.6.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:315 (March 1994), amended LR 21:1338 (December 1995), repealed LR 41:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

Public Comments

Interested persons may submit written comments on the proposed repeal of Regulation 52 until 5 p.m., August 14,

2015, to Zata Ard, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 52—Small Group Health Insurance Rating Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. LAC 37:XIII.Chapter 29 - Regulation 52 codified certain requirements as set forth in La. R.S. 22:228.2 and 22:228.6. The intent was to restrict premium rate increases and to establish a modified community rating system for health care premiums in the state. However, due to amendments adopted during the 2014 Regular Session of the Louisiana Legislature to La. R.S. 22:972 and La. R.S. 22:1091 through 1099, and pursuant to Section 2794 of the Public Health Service Act (42 USC 300gg-94), 45 CFR Part 154, and any federal regulation issued in accordance with such federal law, Regulation 52 is no longer required. Therefore, Chapter 29 - Regulation 52 is being repealed in its entirety.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The repeal of Regulation 52 will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The repeal of Regulation 52 will have no impact on economic costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The repeal of Regulation 52 will have no impact upon competition and employment in the state.

Denise Brignac	Evan Brasseaux
Deputy Commissioner	Staff Director
1507#056	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 103—Utilization Review Organizations and Independent Review Organizations (LAC 37:XIII.Chapter 62)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the Department of Insurance proposes to promulgate Regulation 103. The purpose of the regulation is to establish the standards and criteria for the structure and operation of utilization review and benefit determination processes to facilitate assessment and management of health care services; to provide the standards for the establishment and maintenance of procedures by health insurance issuers to assure that covered persons have the opportunity for appropriate resolution of internal and external appeals; and to provide uniform standards for the establishment and maintenance of an internal claims and appeals process and external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination. Regulation 103 replaces Regulation 77 as utilization review organizations and independent review organizations statutorily replace medical necessity review organizations.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 62. Regulation 103—Utilization Review Organizations and Independent Review Organizations

§6201. Purpose

A. The purpose of this regulation is:

1. to establish the standards and criteria for the structure and operation of utilization review and benefit determination processes designed to facilitate ongoing assessment and management of health care services;

2. to provide the standards for the establishment and maintenance of procedures by health insurance issuers to assure that covered persons have the opportunity for the appropriate resolution of internal and external appeals; and

3. to provide uniform standards for the establishment and maintenance of an internal claims and appeals process and external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6203. Applicability and Scope

A. This regulation applies to all utilization review organizations, independent review organizations, health insurance issuers and health maintenance organizations that are doing business and acting as a utilization review organization or independent review organization in the state of Louisiana or who are seeking to do business as a utilization review organization or independent review organization in the state of Louisiana, as well as to health insurance issuers when they are a party to an external review request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6205. Authorization or Licensure as a URO

A. No health insurance issuer or entity acting on behalf of or as an agent of a health insurance issuer shall act as a utilization review organization unless licensed to do so by the commissioner. The license shall become effective upon approval by the commissioner and shall remain in effect, unless suspended or revoked by an action of the commissioner.

B. Entities who are not health insurance issuers but who are seeking to become licensed as a URO must complete and submit an application packet to the commissioner. The packet must include the application on the form approved and provided by the commissioner, payment of the initial fee per R.S. 22:821(B)(36) and all supporting documentation.

Failure to submit all required documentation may result in processing delays or disapproval of the application. To obtain a copy of the URO application, visit www.ldi.la.gov/industry/company-licensing/application-forms.

C. Entities who are health insurance issuers and hold a valid certificate of authority in this state are not required to complete an application. However, the following documentation must be submitted to the commissioner:

1. a general description of the operation of the URO, including a statement that the URO does not engage in the practice of medicine nor acts to impinge or encumber the independent medical judgment of treating physicians or providers;

2. a copy of the URO's program description or procedures manual;

3. a sample copy of any contract, absent fees charged, for making utilization review determinations that is entered into with another health insurance issuer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6207. Approval of Independent Review Organizations (IRO)

A. The commissioner must approve eligible IROs prior to their conducting external reviews or acting in the capacity of an IRO. However, no organization shall be approved as an IRO or added to the list of approved IROs until it has submitted for approval a completed application packet and proof of accreditation by a nationally recognized private accrediting body that maintains accreditation standards equivalent to or higher than the minimum qualifications set forth in R.S. 22:2441. If the commissioner does not approve an IRO, the IRO will be notified of the disapproval in writing.

B. The application packet must include the application completed on the form approved and provided by the commissioner, payment of the initial fee per R.S. 22:821(B)(37) and all supporting documentation as outlined in the application. Failure to submit all required documentation may result in processing delays or disapproval of the application. To obtain a copy of the IRO application, visit www.ldi.la.gov/industry/company-licensing/application-forms.

C. IRO approvals are effective for two years from the date of approval. A request for re-approval must be submitted on the application form that has been approved by the commissioner and shall be accompanied by the applicable fee. Re-approval applications must be submitted not less than 60 days prior to the expiration of the most current approval.

D. If an approved IRO's specialty changes at any point during the two-year period, the IRO must inform the LDI of this change in writing within seven business days of such change.

E. The commissioner will maintain and update the list of approved IROs. However, the commissioner may also revoke approval prior to the expiration of the two-year term, should it be determined that the IRO has lost its accreditation or no longer meets the minimum requirements under R.S. 22:2441. In such case, the IRO will be removed from the list of IROs and must cease conducting reviews. Any reviews that are pending for review by an IRO that has been removed from the list may be reassigned by the commissioner to another IRO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6209. Requesting an External Review

A. All requests for external review must be made by the issuer through the IRO review request module, which can be accessed via the industry access link on the LDI's website: www.ldi.la.gov. When an enrollee requests an external review, the issuer shall notify LDI by entering this request via the link. The request must be entered even if the issuer determines the request is ineligible for review.

B. If the covered person requests an external review but the insurer denies the request as being ineligible pursuant to R.S. 22:2436(B), the covered person or his authorized representative may appeal in writing to the commissioner. The insurer and the insured both may submit additional documentation, such as the policy to verify coverage limitations as well as dates of coverage, documentation of service dates, etc., to help establish why the denial should be upheld or reversed. However, no medical or protected health information should be submitted to the commissioner for this review, unless such information is determinative of the issue in the appeal.

C. Upon receipt of an appeal of an issuer's eligibility determination, the LDI may contact the issuer's designated contact to request additional information, if necessary. Therefore, all issuers should ensure that the designated contact's information is regularly updated in the Industry Access portal, as all electronic communications – including assignment of a case to an IRO, reporting of an IRO's external review results, reporting of the commissioner's decision on eligibility for an external review, etc. – will be sent automatically to the designated contact of record that is on file with the LDI.

D. To facilitate notice of the right to appeal a determination of ineligibility to the commissioner, the issuer shall include the reason for ineligibility, as well as the following language (or language that is substantially similar), in its notice to the insured:

> "[Name of issuer] has determined that your request for an independent external review of your adverse determination does not meet the eligibility requirements for independent external reviews because [reason]. However, [name of issuer]'s determination that you are ineligible for an external review may be appealed to the Commissioner of Insurance, who has the authority to reverse [name of issuer]'s decision and order an independent external review of your adverse determination. If you wish to appeal this decision, you should go to the following website: https://ldi.la.gov /OnlineServices/IROConsumerAppeals.
>
> Once you access the website, enter your last name and case number where instructed. Following verification of your name and case number, you will be able to enter the reasons you

believe your adverse determination should be eligible for an independent external review. If you have questions or if you or your authorized representative is unable to access the website, you may contact the Louisiana Department of Insurance by e-mail at ConsumerAppeals@ldi.la.gov or by telephone at (225) 342-1355.
Your case number is _____."

1. Issuers must also upload a copy of the adverse determination letter when reporting external review requests that have been deemed ineligible.

E. If an insured requests an external review and the insurer does not deny the request as being ineligible or if the commissioner reverses a request that the insurer had deemed ineligible for external review, the health insurance issuer must submit the request to the LDI for assignment of an external review by using the IRO review request form which can be located on the LDI website, www.ldi.la.gov via the industry access portal.

F. When completing the IRO review request form, the insurer must enter the following information:

1. the insured's name;
2. insured's contact information (address, telephone, email address, fax);
3. name of insured's authorized representative (if applicable);
4. authorized representative's contact information (if applicable);
5. policy/contract number;
6. name of primary care doctor or specialist;
7. type of specialty;
8. type of appeal requested: medical, rescission or experimental;
9. type of appeal requested: standard or expedited;
10. result of request: eligible or ineligible.

G.. Once the case has been assigned, neither the covered person nor the health insurance issuer may request the case be reassigned to another IRO, as all IRO assignments are final, unless reassignment is necessary pursuant to Subsection E of §6211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6211. Assignment of Cases to IRO for External Review

A. When an external review is requested and deemed eligible for review, the commissioner will randomly assign that case to an approved IRO for an external review.

B. IROs will be notified of a case assignment via email, which will also include the external review case number specific to the case. To access the case via the industry access portal, click on the link that will be provided in the notice of assignment email.

C. To open and access the case file, click on the "View" button next to the case number. From there, the IRO will have access to the insured's contact information, or the insured's authorized representative's contact information, and supporting documentation for review. The IRO will also enter on this screen its final decision to either uphold or reverse the adverse determination. When the IRO submits its decision in the case, it will receive a confirmation message that the decision was successfully submitted.

D. Notification of the case assignment will also be given to the covered person and the health insurance issuer, and will include the name and contact information of the IRO to whom the case has been assigned.

E. Reassignment of an external review may occur only when:

1. there exists a conflict of interest pursuant to R.S. 22:2441(D). If a conflict exists, the LDI must be informed of such conflict via the industry access link;
2. the IRO is not qualified to perform the type of review requested;
3. the IRO loses its accreditation; or
4. the IRO fails to meet the minimum requirements as set forth in R.S. 22:2441.

F. Should an IRO reassignment be necessary, the commissioner will immediately and randomly reassign another IRO to conduct the review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6213. Annual Reporting

A. UROs and/or health insurance issuers acting as UROs must submit an annual report to the commissioner by March 1 of each year, unless otherwise informed by the commissioner. The report must be submitted on the form supplied by the Office of Health Insurance. If a report is not filed on the form provided, the report will not be accepted. A report filing fee shall be due from any URO other than a health insurance issuer, per R.S. 22:821(B)(36).

B. IROs must submit an annual report to the commissioner by March 1 of each year, unless otherwise informed by the commissioner. The report must be submitted on the form supplied by the Office of Health Insurance. If a report is not filed on the form provided, the report will not be accepted. The submission must be accompanied by the annual report filing fee, per R.S. 22:821(B)(37).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6215. Confidentiality

A. All health insurance issuers must annually certify in writing that their utilization review program or the utilization review program of their designated URO complies with all state and federal laws regarding confidentiality and reporting. The certification shall be made on a form supplied by the Office of Health Insurance by March 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6217. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation that can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6219. Effective Date

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:

§6221. Appeals of Adverse Determinations; Standard Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:850 (April 2002), repealed LR 41:

§6223. Second Level Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:850 (April 2002), repealed LR 41:

§6225. Request for External Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 22:3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:851 (April 2002), repealed LR 41:

§6227. Standard External Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: La. R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:851 (April 2002), repealed LR 41:

§6229. Expedited Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:852 (April 2002), repealed LR 41:

§6231. Expedited External Review of Urgent Care Requests

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:852 (April 2002), repealed LR 41:

§6233. Binding Nature of External Review Decisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:852 (April 2002), repealed LR 41:

§6235. Minimum Qualifications for Independent Review Organizations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:853 (April 2002), repealed LR 41:

§6237. External Review Register

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:

§6239. Emergency Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:

§6241. Confidentiality Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:

§6243. Severability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statute of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:

§6245. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statute of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:855 (April 2002), repealed LR 41:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulations should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulations

should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulations should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulations should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulations should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed regulations should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulations should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulations should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulations should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulations should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulations should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulations 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 regulations that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulations on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed regulations should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulations should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed regulations should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed regulations should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulations will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulations will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed regulations will have no effect.

Public Comments

Interested persons may submit written comments on the proposed promulgation of Regulation 103 and the proposed repeal of Regulation 77 until 5 p.m., August 11, 2015, to Mary Jones, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 103—Utilization Review Organizations and Independent Review Organizations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in implementation costs or savings to state or local governmental units. Regulation 103 statutorily replaces regulation 77, pursuant to La. R.S. 22:2391-2453 as enacted by Act 326 of the 2013 Louisiana Legislative Session. The purpose of the proposed rule is to establish the standards and criteria for the structure and operation of Utilization Review Organizations (URO) and Independent Review Organizations (IRO. These organizations replace Medical Necessity Review Organizations (MNRO) and all references to MNROs are repealed from the Louisiana Administrative Code.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Regulation 103 will result in an indeterminable but likely minimal increase in SGR to the Louisiana Department of Insurance (LDI) associated with $500 biennial licensing fees and $500 annual report filing fees for IROs. LDI implemented these procedures and licensures as per statute during FY15.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Regulation 103 codifies existing practice and will have no impact on economic costs or benefits to directly affected persons or non-governmental groups. At the time the department enacted the requirements of Act 326 of 2013, MNROs paid a one-time licensing fee of $1,500 and an annual report filing fee of $500. Those fees do not change with the transition to becoming UROs. Prior to the enactment of Act

326, IROs were certified (not licensed) and did not file an annual report. With the transition to licensure, IROs began paying a $500 biennial licensing fee and now are required to file an annual report with the accompanying $500 fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Regulation 103 will have no impact upon competition and employment in the state.

Denise Brignac	Evan Brasseaux
Deputy Commissioner	Staff Director
1507#104	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Application and Reporting Forms (LAC 42:III.120)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to promulgate LAC 42:III.120.

Title 42
LOUISIANA GAMING
Part III. GAMING CONTROL BOARD
Chapter 1. General Provisions
§120. Application and Reporting Forms

A. - A.5.b.viii. …

6. General forms:

a. request for permission to reapply, DPSSP 0060.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:

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:III.120.

It is accordingly concluded that amending LAC 42:III.120 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:III.120.

It is accordingly concluded that amending LAC 42:III.120 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:III.120 is amended as the changes will not apply to small businesses.

Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of amending LAC 42:III.120.

It is accordingly concluded that amending LAC 42:III.120 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service.
2. the total direct and indirect effect on the costs to the provider to provide the same level of service.
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit comments relative to this proposed Rule, through August 10, 2015, to Matthew H. Long, Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Application and Reporting Forms

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no effect on state or local governmental expenditures. The proposed rule adds a new form, Request for Permission to Reapply, to the current rules. Act 370 of 2014 allows a person whose gaming license, permit, or approval has been revoked, or who has been found unsuitable to participate in the gaming industry, to reapply prior to the passage of five years, if he or she can show good cause as to why the early reapplication should be allowed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local 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 to directly affected persons or non-governmental units.

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
1507#058	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Request for Permission to Reapply (LAC 42:III.113)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it intends to promulgate LAC 42:III.113.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board
Chapter 1. General Provisions
§113. Request for Permission to Reapply

A. A person who has been found unsuitable and/or whose license, permit, or approval has been revoked, in this state or in any other jurisdiction, may not apply for a license, permit, or approval or a finding of suitability for five years from the date there was a finding of unsuitability and/or the license, permit, or approval was revoked, unless the board allows the application for good cause shown.

B. Any request for permission to reapply pursuant to R.S. 27:28(E) and 27:431(D), shall be made to the board by the filing of a request for permission to reapply. Such request may not be made within one year from the date of the revocation and/or finding of unsuitability. If the request for permission to reapply is denied or is granted but the application is denied, another request for permission to reapply may not be filed within the five-year period of Subsection A of this Section and R.S. 27:28(E) and R.S. 27:431(D).

C. Good cause under R.S. 27:28(E) and 27:431(D) shall be considered on a case-by-case basis and shall be limited to cases in which:

1. the revocation and/or finding of unsuitability was the result of disqualification pursuant to R.S. 27:28(B)(2), and the prosecution or criminal charge on which the revocation was based did not result in a conviction or a plea of guilty or nolo contendere for any offense listed in R.S. 27:28(B)(1);

2. the basis for revocation or finding of unsuitability has been corrected or no longer exists due to one of the following exclusive reasons:

a. a person who was not current in the filing of all applicable tax returns and in the payment of all taxes, interest, and penalties owed to any local taxing authority(ies), the state of Louisiana, and the Internal Revenue Service has become current in such payments and filings;

b. a person required to submit to and meet suitability under R.S. 27:28(H) or 27:427(D) and who was declared unsuitable is no longer required, for any reason, to submit to and meet suitability in connection with the application intended to be filed by the person whose license or permit was revoked;

c. a person whose license or permit has been revoked for failure to submit annual affidavits and fees or other documents required to be submitted therewith, including any tax clearance certificate(s) required by the division or board, cures all such delinquencies by submission of all past due forms, fees, tax clearances, and other required documentation and pays all outstanding penalties imposed for such delinquencies;

3. the statutory or regulatory provision forming the basis for revocation and/or finding of unsuitability is repealed or modified, and the repeal or modification of the statutory or regulatory provision negates the grounds for revocation and/or finding of unsuitability.

D. A request filed under this Section must:

1. be in the form of a request for permission to reapply;

2. be in writing and submitted to the Louisiana Gaming Control Board;

3. be made by the person seeking to reapply for a license, permit, or approval which was previously revoked or by a person who was found unsuitable to participate in Louisiana's gaming industry;

4. include a copy of the decision and order of revocation or finding of unsuitability;

5. include an explanation of how the grounds that were the basis for revocation or finding of unsuitability have been corrected or no longer exist. This must be supported by notarized or certified copies of documents which demonstrate that there is good cause pursuant to Subsection C to allow reapplication; and

6. comply with all requirements set forth in the request for permission to reapply, as well as this Section.

E. Person, as used in this Section, shall have the same meaning as defined in R.S. 27:3(22).

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 41:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting LAC 42:III.113.

It is accordingly concluded that adopting LAC 42:III.113 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 adopting LAC 42:III.113.

It is accordingly concluded that adopting LAC 42:III.113 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:III.113 is adopted as the changes will not apply to small businesses.

Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential provider impact of adopting LAC 42:III.113.

It is accordingly concluded that adopting LAC 42:III.113 would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit comments relative to this proposed Rule, through August 10, 2015, to Matthew H. Long, Assistant Attorney General, at Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Request for Permission to Reapply

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no effect on state or local governmental expenditures. Act 370 of 2014 allows a person whose gaming license, permit, or approval has been revoked, or who has been found unsuitable to participate in the gaming industry, to reapply prior to the passage of five years, if he or she can show good cause as to why the early reapplication should be allowed. The proposed rule sets forth five exclusive circumstances that may give rise to a finding of "good cause," and which may allow a person to reapply, subject to the Louisiana Gaming Control Board's approval of the Request for Permission to Reapply.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local 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 to directly affected persons or non-governmental units. The rule has the potential to have economic benefits to directly affected persons**.** To the extent the request is approved by the Louisiana Gaming Control Board, the individual seeking to reapply would be granted the right to make application for a gaming license, permit, or approval, or finding of suitability to participate in Louisiana's gaming industry, prior to the passage of five years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has the potential to impact employment in Louisiana's private gaming industry since it has the potential to grant individuals an opportunity to reapply for a license, permit, or approval, or finding of suitability, prior to the passage of five years, thus being employed in the gaming industry sooner than ordinarily allowed by law.

Ronnie Jones	Evan Brasseaux
Chairman	Staff Director
1507#057	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation Administration

Complaints Concerning Judicial Conduct, Investigations
(LAC 40:I.5534)

The Louisiana Workforce Commission does hereby give notice of its intent to enact LAC 40:5533.1. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C). It provides for an orderly procedure by which complaints concerning the conduct of workers' compensation judges are submitted to and investigated by the OWC.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 3. Hearing Rules
Chapter 55. General Provisions
Subchapter F. Power and Authority
§5534. Submission and Investigation of Complaints alleging Judicial Misconduct or Disability

A. Complaints alleging misconduct or disability on the part of any workers' compensation judge shall be submitted to the director in writing, and shall include:

1. the complainant's full name, address, and telephone number;
2. the judge's name and assigned court;
3. a statement detailing the alleged misconduct or disability, including all underlying facts and the names and addresses of any persons having knowledge relevant to the complaint, and if known, the particular judicial cannons, rules of professional conduct, Civil Service rules, or other rules allegedly violated;
4. copies of any pleadings, orders, judgments, or other documents relevant to the complaint;
5. if the alleged misconduct or disability concerns a specific matter pending before the judge, the complainant shall list all parties thereto and/or their counsel of record, and shall certify that a copy of the complaint has been provided to them via facsimile, other electronic transmission, or by certified mail.

B. Upon receipt of the complaint, the director or his designee shall commence a preliminary review. Complaints which solely criticize a judge's official decision making or claim judicial error subject to appellate review, or which fail to comply with Subsection A of this Section, shall be screened out as frivolous, and notification of rejection shall be sent to the complainant and all persons identified per Paragraph A.5 of this Section.

C. The director or his designee shall investigate all non-frivolous complaints as deemed reasonable and necessary. Pursuant to the investigation, a copy of the complaint shall be provided to the judge who is subject thereof, who shall

provide a written answer within 10 days of receiving the complaint, setting forth a response to the allegations and including any appropriate commentary or explanation.

D. Within 60 days of receipt of the original complaint by the office, the director shall determine any disciplinary action to be taken. A copy of the decision shall be provided contemporaneously to the judge who is the subject of the complaint.

E. Nothing herein shall prevent a complainant from seeking any other remedy allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1 (C) and R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Workers' Compensation Administration, LR 41:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to implement the Rule.
2. This Rule should create no additional cost to providers or payers.
3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to Patrick Robinson, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802. Such comments should be received on August 10, 2015, by COB.

Public Hearing

A public hearing will be held on August 26, 2015, at 10:30 a.m. at the Louisiana Workforce Commission Training Center located at the corner of Fuqua Street and North Twenty-Second Street across from the main campus of the Workforce Commission, in Baton Rouge, LA. The public is invited to attend.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Complaints Concerning Judicial Conduct, Investigations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule adds a new section to Title 40 Labor and Employment, Part 1 Workers' Compensation Administration, Subpart 2 Hearing Rules, Subchapter F entitled Section 5533.1 Submission and Investigation of Complaints alleging Judicial Misconduct or Disability. This section provides a formal procedure for submitting and investigating complaints alleging the misconduct or disability of Workers' Compensation judges to be investigated through the Director of the Office of Workers' Compensation Administration (OWCA).

Besides the cost to publish in the Louisiana Register, the proposed rule will not result in any additional expenses to the OWCA nor will the proposed rule result in any material savings to OWCA. Likewise, it is not anticipated that the proposed rules will result in any material costs or savings to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Presently, there is no formal procedure for submitting complaints on judges to the OWCA. The proposed rule adds a new procedure for submitting and investigating complaints of judicial misconduct or disability.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Patrick Robinson
Director
1507#069

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation Administration

Electronic Billing (LAC 40:I.311)

The Louisiana Workforce Commission does hereby give notice of its intent to make changes to LAC 40:I.311.H. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C). It provides a time limit by which payment for all uncontested medical bills must be paid.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Chapter 3 Electronic Billing
Chapter 3. Electronic Billing
§311. Employer, Insurance Carrier, Managed Care Organization, or Agents' Receipt of Medical Bills from Health Care Providers

A. - G. …

H. Payment of all uncontested portions of a complete medical bill shall be made within 30 calendar days of receipt of the original bill, or receipt of additional information requested by the insurance carrier allowed under the law. Amounts paid after this 30 calendar day review period shall be subject to R.S. 23:1201(F).

I. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.2.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 37:3546 (December 2011), amended by the Workforce Commission, Office of Workers' Compensation Administration LR 41:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to implement the Rule.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to Patrick Robinson, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802, and should be received on or before August 10, 2015.

Public Hearing

A public hearing will be held on August 26, 2015, at 9:30 a.m., at the Louisiana Workforce Commission Training Center located at the corner of Fuqua Street and North Twenty-Second Street across from the main campus of the Workforce Commission, in Baton Rouge, LA. The public is invited to attend.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Billing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is an amendment to Title 40 Labor and Employment, Part 1 Workers' Compensation Administration, Chapter 3, Section 311(H), which corrects the time delay allowed for payment of all uncontested portions of a complete medical bill submitted by medical providers who utilize electronic billing rules and regulations as provided for in R.S. 23:1203.2, from 60 calendar days to 30 calendar days from receipt of the original bill, or receipt of additional information requested by the insurance carrier allowed under the law, in order to bring the rule in accordance with statutory law as set forth in La. R.S. 23:1201(E).

Besides the cost to publish in the Louisiana Registar, the proposed amendment will not result in any additional expenses to the Office of Workers' Compensation Administration (OWCA) nor will it result in any material savings to OWCA. The amended rule merely corrects the time allowed for payment of medical benefits submitted electronically, from 60 calendar days to 30 calendar days from receipt of the original bill, or receipt of additional information requested by the insurance carrier allowed under the law, to bring it in accordance with statutory law. The implementation of this rule will have no anticipated effect on revenue collections of state or local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The amended rule will merely change the time allotted for payment of all uncontested portions of a complete medical bill from 60 calendar days to 30 calendar days from receipt of the original bill, or receipt of additional information requested by the insurance carrier as allowed under the law, to bring it in accordance with statutory law as set forth in La. R.S. 23:1201(E).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Curt Eysink	Gregory V. Albrecht
Executive Director	Chief Economist
1507#071	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation Administration

Proper Venue (LAC 40:I.5515)

The Louisiana Workforce Commission does hereby give notice of its intent to amend LAC 40:I.5515. This Rule is amended by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Hearing Rules
Chapter 55. General Provisions
Subchapter D. Venue
§5515. Proper Venue

A. Proper venue in a workers' compensation claim shall be governed by R.S. 23:1310.4.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999), amended LR 25:1860 (October 1999), LR 33:652 (April 2007), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 37:1626 (June 2011), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 41:

Family Impact Statement

The proposed amendment to Title 40 should have no impact on families.

Poverty Impact Statement

The proposed amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. The proposed amendment should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists.
2. The proposed amendment should create no additional cost to providers or payers.
3. The proposed amendment should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to Patrick Robinson, Director, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802. Comments should be received by August 10, 2015.

Public Hearing

A public hearing will be held on August 26, 2015, at 10 a.m. at the Louisiana Workforce Commission Training Center located at the corner of Fuqua Street and North Twenty-Second Street across from the main campus of the Workforce Commission, in Baton Rouge, LA. The public is invited to attend.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Proper Venue

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The repeal of Title 40 Labor and Employment, Part I Workers' Compensation Administration, Subpart 2 Hearing Rules, Subchapter D, Section 5515 Proper Venue, will rescind the current venue rule in a workers' compensation claim. The general venue rules of the Louisiana Code of Civil Procedure will govern proceedings.

Besides the cost to publish in the Louisiana Register, the repeal of the rule will not result in any additional expenses to the Office of Workers' Compensation Administration (OWCA) nor will the repeal of the rule result in any material savings to OWCA. The repeal of the rule will merely rescind the current venue rule in a workers' compensation claim. The repeal of this rule will have no anticipated effect on revenue collections of state or local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The repeal of this rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The repeal of the rule rescinds the proper venue rule in a workers' compensation claim.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Patrick Robinson
Director
1507#070

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Rehabilitation Services

Business Enterprises Program Manual
(LAC 67:VII.Chapter 5)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), proposes to revise seven Sections of the Business Enterprise Program Manual, as it relates to the Randolph-Sheppard Program as a result of 2014 Legislation ACT 761. In §505.A, Federal Legal Authority, the "Department of Social Services" is being removed. In §507.C, State Legal Authority, the term *preference* will be changed to *priority* and the description of where priority applies will be defined. In §509, Definitions, three definitions will be revised to reflect content in R.S. 23:3021 and R.S. 23:3042. There is a second §509, promulgation of business enterprises program policies, the agency will change this Section to §510. And in this Subsection B., the Department of Social Services will be removed. In Section §515.A, Organization of State Licensing Agency, "Louisiana Department of Social Services" will be removed. In §519.H, State Licensing Agency Responsibilities, the agency will add procedures for enforcing Randolph Sheppard priority added in R.S. 23:3023(F) and (G). In §519.I, as per R.S. 23:3023(D), the agency will add rules and regulations regarding employment targets. In §519.J, the agency will add a time frame for a new reporting requirement in R.S. 23:3021(C). In §527, agency will be revised to reflect content in R.S. 23:3042.8.

Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services
Chapter 5. Business Enterprises Program Manual

§505. Federal Legal Authority

A. The Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992. In accordance with federal law under title I of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, including the Rehabilitation Act amendments of 1986 (Public Law 99-506), and the Rehabilitation Act amendments of 1992 (Public Law 102-569), vocational and other rehabilitation services are offered to individuals with disabilities through Louisiana Rehabilitation Services.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:527 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§507. State Legal Authority

A. - B. …

C. R.S. 23.3023 gives priority to the blind in operation of vending stands, vending machines, cafeterias, and other small business concessions to be operated in the portions, or portions thereof, of properties that those state agencies, boards, commissions, and institutions own, maintain, occupy, or control. No other vending stands, vending machines, cafeterias, or small business concessions shall be

operated on the same premises with vending stands, vending machines, cafeterias, or other small business concessions operated, or contemplated, under the blind business enterprise program, except as provided by R.S. 23:3023.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§509. Definitions

A. The following words or terms, when used in this manual, shall have the following meaning unless the context clearly indicates otherwise.

* * *

Active Participation—an ongoing process of good faith negotiations between Louisiana Rehabilitation Services and the Louisiana Blind Vendors elected committee to achieve joint planning of policies, procedures, standards, rules, and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by Louisiana Rehabilitation Services. Louisiana Rehabilitation Services shall have final authority and responsibility in all decisions relative to the administration and operation of the Business Enterprise Program. Active participation shall include the requirements set forth in 34 CFR 395.14(b)(1), (3), and (4).

* * *

Blind Person—a person who, after examination by a licensed physician skilled in the diseases of the eye or by a licensed optometrist, has been determined to have:

a. not more than 20/100 central visual acuity in the better eve with correcting lenses; or

b. an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eve to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

* * *

Management Services—supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§510. Promulgation of Business Enterprises Program Policies

A. …

B. The rulemaking authority is Louisiana Rehabilitation Services, hereinafter referred to as the state licensing agency (SLA). Promulgation of rules and procedures governing the Business Enterprises Program follows the process Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§515. Organization of State Licensing Agency

A. Louisiana Rehabilitation Services (LRS), is designated as the sole state agency under a state plan for vocational rehabilitation services approved pursuant to the provisions of the Rehabilitation Act of 1973, (29 U.S.C. Ch. 16) and approved by Rehabilitation Services Administration as the state licensing agency.

1. - 8.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§519. State Licensing Agency Responsibilities for Business Enterprise Operations

A. - G.4.d. …

H. Enforcement Randolph Sheppard Priority. The SLA is responsible for notifying entities of the Randolph Sheppard priority to operate vending services as specified in R.S. 23:3023. If there is a dispute that cannot be resolved by the parties, the SLA will file for a full evidentiary hearing as follows.

1. Full Evidentiary Hearings. A full evidentiary hearing shall be conducted by an impartial and qualified official designated by Louisiana Rehabilitation Services with no involvement or vested interest in the dispute at issue.

a. The hearing offices shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself.

b. Report shall be issued to all parties within 30 calendar days of the conclusion of the full evidentiary hearing.

c. The decision shall be final and conclusive unless fraudulent, or unless either party institutes a suit pursuant to R.S. 23:2023(G).

I. Implementation of R.S. 23:3023(D): Employment and Training Targets for Persons who are Blind or Otherwise Disabled

1. Requirement applies to:

a. each blind vendor who employs greater than 10 employees and operates a BEP facility under a permit ratified or issued after the promulgation of this Subsection;

b. businesses that provide services to BEP facilities that employ greater than ten employees and operate under a contract ratified or issued after the promulgation of this subsection.

2. Employer Guidelines. Specific targets will be determined by the employer and may include:

a. establishing numerical hiring goals to include individuals with disabilities and incorporate these goals in their hiring practices;

b. engaging in outreach activities and targeted recruitment of individuals with disabilities;

c. utilizing services provided by Louisiana Rehabilitation Services to access a qualified pool of candidates for on the job training and temporary and permanent employment opportunities.

3. LRS' role will be to govern and implement initiatives to provide education, outreach and information regarding effective business practices that foster

employment of blind or otherwise disabled individuals. The expected outcome of these strategies, is to increase job opportunities for individuals who are blind or otherwise disabilities.

J. Louisiana Rehabilitation Services shall submit a quarterly performance report of the agency's programs for blind persons to the legislature by the end of the month following the end of the quarter. An annual report shall be submitted no later than 60 days prior to the convening of the Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§527. The Elected Committee of Managers

A. …

B. Paragraphs 527.B.1-2 provide guidance in approaching the degree of participation by the ECM.

1. Active participation means an ongoing process of good faith negotiations between the ECM and SLA to achieve joint planning of policies, procedures, standards, rules and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by the SLA.

2. The SLA shall have final authority and responsibility in all decisions relative to the administration and operation of all aspects of the Business Enterprises Program

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

Family Impact Statement

In compliance with R.S. 49:972 the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy by increasing access to and participation in the Vocational Rehabilitation/Business Enterprise Program. This Rule will not affect the authority and rights of parents regarding the education and supervision of their children or behavior and personal responsibility of children.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule 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(B) due to increase participation in the Vocational Rehabilitation/Business Enterprise Program which is expected to reduce dependence on public assistance programs and enable employment and independence.

Small Business Statement

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6 and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service; the total direct and indirect effect on the cost to the providers to provide the same level of service; or the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, or opinions through August 27, 2015 to Mark S. Martin, LRS Director, P.O. Box 91297, Baton Rouge, LA 70821-9297. Copies of the of the revised policy may be obtained at Louisiana Rehabilitation Services, 950 North Twenty-Second Street, Baton Rouge, LA 70802, or at each of its eight regional offices, and at the Office of the State Register, 1201 North Third Street, Baton Rouge, LA, or on the Office of the State Register's website at www.doa.louisiana.gov/osr/osr.htm.

Public Hearing

A public hearing on the proposed Rule will be held on August 27, 2015 at the Baton Rouge Regional Office, 3651 Cedarcrest Avenue, Baton Rouge, LA, beginning at 9 a.m. Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14-working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 219-2225 or (800) 737-2958 (V/TDD).

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Business Enterprises Program Manual

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule amends Louisiana Administrative Code (LAC) Title 67 Social Services, Part VII Rehabilitation Services, and Chapter 5 Business Enterprises Program Manual to comply with ACT 761 of 2014 that authorized technical changes to existing law. The proposed rule amends seven sections of the Business Enterprise Program Manual for the Randolph-Sheppard Program. The changes are as follows: (1) removes the "Department of Social Services" throughout the chapter; (2) replaces the term "preference" with "priority" regarding vending/cafeteria services to certain facilities in Section 507 State Legal Authority; (3) revises definitions to reflect language in the law, (4) corrects a numbering error; (5) adds procedures for enforcing Randolph Sheppard priority, adds rules and regulations regarding employment targets, and time frames for new reporting requirements in Section 519 State Licensing Agency Responsibilities for Business Enterprises Operations, and (6) revises content to reflect language in the law.

The proposed rule will not impact the overall expenditures of the department. The only costs associated with this proposed

rule are administrative expenses necessary for the promulgation the rule. It is estimated that $1,200 of Federal funds will be expended in FY 15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The cost of rulemaking is routinely included in the agency's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not anticipated to have a fiscal impact on non-governmental groups. However, the exact impact of the proposed rule that strengthens "priority" for Randolph Sheppard Managers is not known.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have an impact on competition and employment.

Curt Eysink	Gregory V. Albrecht
Executive Director	Chief Economist
1507#075	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Rehabilitation Services

Randolph-Sheppard Trust Fund Policy
(LAC 67:VII.Chapter 21)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), proposes to revise six Sections of the Randolph-Sheppard trust fund policy, as it relates to the Randolph-Sheppard Program as a result of 2014 Legislation ACT 761. In §2101.B.1, Program Administration, the "Department of Social Services" will be removed, "Louisiana Workforce Commission" will be added, and in §2101.B.2, the term *advisory* will be removed and the balance of the Section will be revised to reflect the content in R.S. 23:3044. In §2105, Definitions, the term *agency* will remove "Department of Social Services" and will add "Louisiana Workforce Commission, Office of Workforce Development," the term *board* will remove the word *advisory*, and the term *department* will remove the "Department of Social Services" and will add "Louisiana Workforce Commission." In §2107, Blind Vendors Trust Fund Advisory Board, the term *advisory* is being removed from the Section title. In §2107.A, the term *advisory* will be removed. In §2107.A.1, "of the Department of Social Services" will be removed. In §2111.C, Expenditures, the agency will add "with the active participation of the Blind Vendors Trust Fund Board." In §2111.D, the term *associated* will be removed and the term *consistent* will be added, and the agency will add "with the active participation of the Blind Vendors Trust Fund Board." In §2113.A, Financial Reports, the agency will remove "of the Department of Social Services." In §2115.C, General Requirements, the agency will remove "Department of Social Services" and will add "Louisiana Workforce Commission."

Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services
Chapter 21. Randolph-Sheppard Trust Fund Policy

§2101. Program Profile

A. Mission. To provide for the enhancement of programs for persons who are licensed and permitted through the Randolph-Sheppard Business Enterprise Program.

B. Program Administration

1. The administration of the fund shall be exercised by Louisiana Workforce Commission, Louisiana Rehabilitation Services.

2. The Blind Vendors Trust Fund Board shall actively participate with the agency in the following: promulgating policies, procedures, standards, rules and regulations; monitoring, evaluating, reviewing the development and quality of services and programs funded through the fund; and developing an annual list of potential vending locations on state, federal, or other property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§2105. Definitions

Agency—Louisiana Rehabilitation Services of the Office of Workforce Development within the Louisiana Workforce Commission, which licenses blind vendors.

* * *

Randolph-Sheppard Act—the federal law which enables the Blind Enterprise Program under the authority of 20 U.S.C. 107 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§2107. Blind Vendors Trust Fund Board

A. The Blind Vendors Trust Fund Board shall be composed of nine members as follows:

1. the director of Louisiana Rehabilitation Services or his or her designee;

A.2. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§2111. Expenditures

A. - B. …

C. Income not expended for the primary purpose shall be used for the maintenance and replacement of equipment, the purchase of new equipment, management services, and securing a fair return to vendors, or as provided by state and federal guidelines with the active participation of the Blind Vendors Trust Fund Board.

D. Money in the trust fund from vending machines located on state-owned property or on property leased by the state agency, or on other property shall be distributed for any purpose consistent with the Randolph-Sheppard Program as

may be determined by the state licensing agency with the active participation of the Blind Vendors Trust Fund Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§2113. Financial Reports

A. The director of Louisiana Rehabilitation Services or his designee shall arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:

§2115.General Requirements

A. - B. …

C. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Blind Vendors Trust Bund shall comply with all state and federal laws, including the Louisiana Workforce Commission policies and procedures as well as civil rights rules and regulations, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:

Family Impact Statement

In compliance with R.S. 49:972, the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy by increasing access to and participation in the Vocational Rehabilitation/Business Enterprise Program. This Rule will not affect the authority and rights of parents regarding the education and supervision of their children or behavior and personal responsibility of children.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule 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(B) due to increased participation in the Vocational Rehabilitation/Business Enterprise Program, which is expected to reduce dependence on public assistance programs and enable employment and independence.

Small Business Statement

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6 and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service; the total direct and indirect effect on the cost to the providers to provide the same level of service; or the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, or opinions through August 27, 2015, to Mark S. Martin, LRS Director, P.O. Box 91297, Baton Rouge, LA 70821-9297. Copies of the of the revised policy may be obtained at Louisiana Rehabilitation Services, 950 North Twenty-Second Street, Baton Rouge, LA 70802, or at each of its eight regional offices, and at the Office of the State Register, 1201 North Third Street, Baton Rouge, LA, or on the Office of the State Register's website at www.doa.louisiana.gov/osr/osr.htm.

Public Hearing

A public hearing on the proposed Rule will be held on August 27, 2015 at the Regional Office, 3651 Cedarcrest Avenue, Baton Rouge, LA, beginning at 9 a.m. Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14-working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 219-2225 or (800) 737-2958 (V/TDD).

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Randolph-Sheppard Trust Fund Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule revises Louisiana Administrative Code (LAC) Title 67 Social Services, Part VII Rehabilitation Services, and Chapter 21 Business Enterprises Program Manual to comply with ACT 761 of 2014 that authorized technical changes to existing law. The proposed rule amends six sections of the Business Enterprise Program Manual for the Randolph-Sheppard Program. The changes are as follows: (1) removes the "Department of Social Services" and replaces it with "Louisiana Workforce Commission" throughout the chapter; (2) removes the term "advisory" and replaces it with "with the active participation of the Blind Vendors Trust Fund Board" in Section 2111 Expenditures; (3) removes the term "associated" and replaces it with "consistent" to reflect the language changed in ACT 761.

The proposed rule will not impact the overall expenditures of the department. The only costs associated with this proposed rule are administrative expenses necessary for the promulgation the rule. It is estimated that $1,200 of Federal funds will be expended in FY 15 for the state's administrative expense for

promulgation of this proposed rule and the final rule. The cost of rulemaking is routinely included in the agency's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not anticipated to have a fiscal impact on non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have an impact on competition and employment.

Curt Eysink
Executive Director
1507#076

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-June 2015

LAC Title	Part #.Section #	Action	Location: Month	LR 41 Page#
4	V.Chapter 15	Amended	June	1043
	V.Chapter 27	Amended	May	882
	XV.101,301,501,503,701	Amended	Jan.	46
	XV.303	Repealed	Jan.	46
7	V.Chapter 27	Adopted	Feb.	332
	XIII.121,719	Amended	May	911
	XIII.767	Adopted	May	911
	XXV.101,141	Amended	Feb.	333
10	XI.Chapter 11	Adopted	Mar.	537
13	I.1107	Amended	June	1084
16	II.Chapter 9	Adopted	Feb.	401
22	V.119,205	Amended	Jan.	42
	XI.102,103,117,307,501,503,507,511,514	Amended	Jan.	42
	XI.504,505,801,803,805,807	Adopted	Jan.	42
	XV.Chapter 19	Adopted	Jan.	48
28	IV.113,502	Adopted	Apr.	649
	IV.301,501,503,505,507,701,703,705,801	Amended	Apr.	658
	IV.301,703,803,1703,2103,2113	Amended	Apr.	649
	IV.703	Amended	Feb.	343
	IV.805,1903,2103	Amended	Apr.	658
	IV.1001,1005,1007,1009,1011,1013	Amended	Feb.	344
	IV.1003	Amended	Apr.	668
	IV.1003,1017	Adopted	Feb.	344
	IV.1015,1901	Amended	Feb.	344
	VI.301	Amended	Apr.	669
	XLV.501	Amended	May	918
	LXXIX.2109	Amended	May	915
	LXXXIII.613	Amended	Apr.	615
	XCVII.503,505	Amended	Mar.	535
	CXI.3307	Amended	Apr.	616
	CXV.339,1103	Amended	Feb.	342
	CXV.701	Amended	Jan.	41
	CXV.2313	Amended	Apr.	643
	CXV.2318	Amended	May	915
	CXV.2323	Adopted	Apr.	643
	CXXXI.Chapters 2,6	Amended	Apr.	644
	CXXXI.204,344,604	Adopted	May	915
	CXXXI.243,341,605	Amended	May	915
	CXLIX.Chapter 21	Adopted	Feb.	340
	CLV.103,303,901,1303	Amended	Jan.	40
	CLVII.309	Amended	Feb.	341
	CLXI.Chapters 1-21	Adopted	Apr.	616
	CLXIII.501,503	Adopted	Feb.	341
31	II.107,109	Amended	Apr.	759
	II.108	Adopted	Apr.	759
32	I.101,301,703-901,1101-1109	Amended	Feb.	338
	I.103,303-521,701,903	Adopted	Feb.	338
	I.721,905,1301	Repealed	Feb.	338
	III.Chapter 1	Adopted	Feb.	338
	III.Chapter 2-7	Repealed	Feb.	338
	V.101,203-507	Adopted	Feb.	338
	V.103-109,309-325,409-423,601-703	Repealed	Feb.	338
	V.201	Amended	Feb.	338
	IX.Chapters 1-7	Repealed	Feb.	338
33	III.503,519	Amended	Feb.	346
	III.711	Amended	Apr.	669
	IX.2905	Amended	Mar.	536
34	III.313	Amended	Feb.	336
	V.2101,2518,2521	Amended	Apr.	670
	XIII.Chapters 3-25	Adopted	Mar.	541
	XIII.511,1902	Amended	June	1119
40	I.2519	Amended	May	981
	I.5507	Amended	Mar.	560
43	I.1509	Amended	Jan.	150
	XIX.Chapter 1	Amended	May	951
	XIX.137	Repromulgated	June	1120
43	XIX.507	Amended	May	951
46	XXI.1103	Amended	Feb.	334
	XXI.1303	Adopted	Feb.	335
	XXIX.119	Adopted	Mar.	536
	XL.Chapter 1-7	Amended	May	919
	XLV.1521,4505,4506,4511	Amended	May	925
	XLV.4512	Adopted	May	925
	XLVII.3327	Amended	June	1085
	XLIX.703,903,1201	Amended	Jan.	96
	XLIX.1105	Amended	Jan.	96
	LIII.2411,2413,2415	Adopted	Jan.	100
	LIII.2511	Amended	Jan.	98
	LIII.2531,2533,2535	Amended	Jan.	97
	LIII.2537	Repealed	Jan.	97
	LIII.2745,2747	Amended	Apr.	684
	LIII.2901,2911	Amended	Apr.	684
	LV.1003	Amended	Apr.	762
	LX.Chapters 1-47	Amended	Apr.	709
	LX.601-611,705,707,801,803,1327,3317	Adopted	Apr	709
	LX.705,801,803	Repealed	Apr	709
	LX.3309	Repromulgated	Apr	709
	LX.3927	Adopted	Apr	709
	LXI.1503	Amended	June	1122
	LXVII.10301-10303,10308-10313,10417	Amended	Feb.	368
	LXVII.10307	Repealed	Feb.	368
48	I.Chapter 44	Repealed	Apr	685
	I.Chapter 44	Adopted	Apr	685
	I.5237,5247,5257,12501,12503	Amended	Jan.	133
	I.Chapters 53-54	Adopted	Jan.	101
	I.Chapter 68	Adopted	June	1086
	I.Chapters 68 and 88	Repealed	June	1086
	I.12508	Adopted	Jan.	133
	I.Chapters 191,193,195	Adopted	Jan.	137
	I.19119	Adopted	May	950
	I.Chapter 201	Amended	Feb.	385
	IX.334	Adopted	Jan.	146
50	I.Chapters 31-40	Amended	May	928
	I.3303,3305,3723,3725,3727,3729,3731	Repealed	May	928
	I.3711,3713	Adopted	May	928
	I.3733,3735,3737,3743	Repealed	May	928
	II.20005	Amended	Apr.	707
	II.20005	Amended	May	949
	II.20021	Amended	Jan.	133
	III.2305	Adopted	June	1118
	III.2327,2529,10307	Adopted	May	945
	III.10705	Amended	May	945
	III.20301,20303	Amended	Apr.	708
	V.953	Amended	Jan.	133
	VII.32903	Amended	Mar.	539
	IX.15113	Amended	Mar.	541
	IX.15113	Amended	June	1119
	XI.301	Amended	Apr.	707
	XI.303	Repealed	Apr.	707
	XV.Chapters 1-7	Adopted	May	926
	XV.Chapters 33-43	Amended	Jan.	129
	XV.9141	Amended	Apr.	708
	XV.12901,12913	Amended	Mar.	540
	XV.25101,25301,25501	Amended	Feb.	378
	XV.27503	Amended	Jan.	133
	XIX.Chapter 43	Amended	Mar.	539
	XXI.Chapter 29	Amended	Feb.	379
	XXI.11107,11303,11527,11529,11703	Amended	Jan.	125
	XXI.11527	Repromulgated	Mar.	538
	XXI.11901,11905,12101	Amended	Jan.	125
	XXXIII.4303,4501	Amended	Feb.	384
	XXXIII.6103,6301,6303,6501	Amended	Feb.	377
51	I.113	Amended	Jan.	148
	XIV.411,609	Amended	Feb.	389
55	III.151	Amended	Jan.	150
	V.3239	Repealed	May	954
	IX.107,159,163,166,201,205,1507,1543	Amended	Feb.	395
	IX.113	Amended	Feb.	394
	IX.203	Repealed	Feb.	395

LAC Title	Part #.Section #	Action	Location: Month	LR 41 Page#
58	III.Chapter 17	Adopted	Feb.	397
61	I.1912	Adopted	Mar.	555
	I.4915	Adopted	Jan.	151
	III.2101	Amended	Mar.	557
	III.2103	Adopted	Mar.	558
	V.101,304,703,907,1103,1307,1503,2503	Amended	Apr.	671
	V.3101,3103,3105,3106,3107,3501	Amended	Apr.	671
67	III.405	Amended	Mar.	534
	III.1942	Adopted	Mar.	533
	III.Chapter 51	Amended	Mar.	531
	III.5541	Amended	May	914
	III.5579	Adopted	May	914
	VII.Chapter 11	Repealed	Feb.	385

LAC Title	Part #.Section #	Action	Location: Month	LR 41 Page#
69	I.Chapters 1-11	Adopted	June	1080
70	III.801,805	Amended	May	954
	III.803	Adopted	May	954
	III.807,809	Repealed	May	954
	XI.101	Amended	Mar.	560
76	I.Chapter 5	Amended	Jan.	39
	V.111	Amended	June	1123
	V.115	Amended	Jan.	152
	VII.347	Adopted	May	956
	VII.367	Amended	Jan.	154
	VII.377	Amended	Apr.	761
	VII.381	Adopted	Apr.	760
	VII.383	Adopted	June	1123
	XIX.Chapter 1	Amended	May	958

Potpourri

POTPOURRI

Department of Health and Hospitals
Board of Medical Examiners

Public Hearing—Substantive Changes to Proposed Rule—Physician Practice; Telemedicine
(LAC 46:XLV.408, 7507, 7509 and 7513)

The Louisiana State Board of Medical Examiners (the "board") published Notice of Intent to amend its rules in the October 20, 2014 edition of the *Louisiana Register* (LR 40:2065 -2069). The notice solicited comments. As a result of the board's consideration of the comments it proposed substantive changes. Pursuant to R.S. 49:968H(2) a public hearing was scheduled (LR 41:293-294) but subsequently cancelled to consider additional changes. After further review the board proposes the following substantive changes to the amendments original proposed: (i) in 408D. to: delete the words *To be acceptable to the board the:* in 408D.3 and delete 408D.3a.-D.4.; renumber 408D.5 as D.4; renumber 408D.6 as D.5 and delete the words *a copy of the required disclosures to patients, identified in §7507 of these rules and*; and renumber 408D.7 as D.6; (ii) in 7507C.1. to delete the words *and e-mail address*; (iii) in 7509A.4. to delete the word *immediately* and add the words "within a reasonable period of time;" (iv) in 7513 to: amend 7513A. to read *The following prohibitions apply to physicians who practice medicine in this state via telemedicine.*; add a preamble in 7513B.; (v) delete 7513C.-C.2.d.; and (vi) amend and renumber existing 7513B.1-2. to 7513C.1-C.2.; delete 7513B.3; renumber 7513B.4 as 7513C.3 and amend it by deleting the words *(other than a Schedule II controlled substance or an amphetamine or opioid)*; and add 7513C.3.b.-C.4. No fiscal or economic impact will result from the amendments proposed in this notice. As substantively amended, these provisions will read as set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter H. Restricted Licensure, Permits
§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. - C. ...

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. - 2 ….

3. an affirmation acceptable to the board, in a format prescribed by the board, that the applicant has an arrangement with one or more physicians, who maintain a physical practice location in this state, to accept patients on referral and for follow-up care.

4. criminal history record information;

5. such other information, acknowledgments and documentation as the board may require; and

6. a fee of $300. The board may waive such fee in favor of an applicant who advises the board in writing that his or her use of telemedicine in this state shall be limited to the provision of voluntary, gratuitous medical services.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended LR 41:

Subpart 3. Practice
Chapter 75. Telemedicine
Subchapter A. General Provisions
§7507. Prerequisite Conditions; Disclosures

A. - B.2.d. …

C. Disclosures. Prior to utilizing telemedicine a physician shall insure that the following disclosures have been made to the patient and documented in the medical record. Such disclosures need not be made or documented more than once, except to update the information provided:

1. the name, Louisiana medical license number and contact information (address, telephone number(s)) of the physician;

2. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended LR 41:

§7509. Patient Records

A. Patient records shall be:

1. - 3. …

4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended LR 41:

§7513. Prohibitions

A. The following prohibitions apply to physicians who practice medicine in this state via telemedicine.

B. Preamble—Controlled Substances. While in most instances the board believes that an in-person visit is required prior to the issuance of a prescription for any controlled substance, provided the physician can examine the patient *via* telemedicine technologies sufficient to make a diagnosis, controlled substances may be prescribed by telemedicine within the limitations of Subsection 7513C.

C. No physician shall utilize telemedicine:

1. for the treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

2. for the treatment of obesity, as set forth in §§6901-6913 of the board's rules;

3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;

a. the physician has had at least one in-person visit with the patient at a physical practice location in this state within the past year;

b. the prescription is issued for a legitimate medical purpose;

c. the prescription is in conformity with the same standard of care applicable to an in-person visit; and

d. the prescription is permitted by and in conformity with all applicable state and federal laws and regulations.

4. Exceptions. The board may grant an exception to the limitations of Subsection 7513C in an individual case that is supported by a physician's written application stating how and why he or she proposes to deviate from 7513C. If an exception is granted by the Board it shall be stated in writing and specify the manner and extent to which the physician shall be authorized to depart from 7513C.

D. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:

Public Hearing

In accordance with R.S. 49:968(H)(2), the board gives notice that a public hearing to receive comments and testimony on these substantive amendments to the Rule amendments original proposed will be held August 20, 2015, at 9:30 a.m. in the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Interested persons may contact Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries.

Cecilia Mouton, M.D.
Executive Director

1507#055

POTPOURRI

Department of Health and Hospitals
Board of Medical Examiners

Public Hearing—Substantive Changes to Proposed Rule—Physician Practice; Unprofessional Conduct (LAC 46:XLV.7603)

The board published a Notice of Intent to amend its rules in the October 20, 2014 edition of the *Louisiana Register* (LR 40:2069-2070). The notice solicited comments. As a result of the board's consideration of the comments it proposed substantive changes. Pursuant to R.S. 49:968H(2) a public hearing was scheduled (LR 41:294-295) but subsequently cancelled to consider additional changes. After further review the board has decided to defer proceeding at this time on the amendments original proposed in §7603A.9 (e.g., holding one's self out as a *specialist*) and proceed only with the proposed amendments to §7603A.11. No fiscal or economic impact will result from the amendments proposed in this notice. As substantively amended, this provision will read as set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 76. Definition of Enforcement Terms
Subchapter B. Unprofessional Conduct
§7603. Unprofessional Conduct

A. - A.10.f. ...

11. *Self-Treatment; Treatment of Immediate Family Members*—except in cases of emergency, physicians shall not prescribe controlled substances for themselves or their immediate family members. As respects a physician, *immediate family members* include the physician's spouse, children, parents, and siblings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011), amended LR 41:

Public Hearing

In accordance with R.S. 49:968(H)(2), the board gives notice that a public hearing to receive comments and testimony on these substantive changes to the Rule amendments original proposed will be held August 20, 2015, at 10:30 a.m. in the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Interested persons may contact Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130 (504) 568-6820, Ex. 242. She is responsible for responding to inquiries.

Cecilia Mouton, M.D.
Executive Director

1507#054

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Carl B. Morgan	Converse	S	Dorothy Morgan	001	150616
Goodrich Oil Company	Opelousas	L	BIHM	001	212106 (30)
Madlyn Harris Muench	Benson	S	Harris Estate	001	155204

Operator	Field	District	Well Name	Well Number	Serial Number
L.F. Twitchell	Caddo Pine Island	S	Stiles	011	76761
Bayou Pierre Oil Co	Wildcat-No La Shreveport Dist	S	B L Brown	001	28111
ARKLA Exploration Company	Monroe	M	Alice Hodge et al	001	54169
Long Bros. Oil Co.	Millers Bluff	S	Alton Keoun et al	001	65688
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Fuller	001	65872
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Fuller	002	66611
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Fuller	004	66729
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Gerhig -Keoun	006	66812
Long Bros. Oil Co.	Simpson Lake	S	Fuller SWD	005	66939
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Fuller	006	67303
Long Bros. Oil Co.	Simpson Lake	S	SL Mira RA SU;Keoun	008	68242
Long Bros. Oil Co.	Simpson Lake	S	SL Mira RA SU;Fuller	012	70962
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Fuller	013	71172
Long Bros. Oil Co.	Simpson Lake	S	SL Parker SU;Fuller	015	77217
Satellite Petroleum	Bayou San Miguel	S	N E Blankenship	001	155517
Satellite Petroleum	Bayou San Miguel	S	N E Blankenship	002	158756
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James H. Welsh
Commissioner

1507#059

POTPOURRI

Workforce Commission
Office of Workers' Compensation Administration

Average Weekly Wage Rate

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2015, has been determined by the Louisiana Workforce Commission to be $865.31.

Patrick Robinson
Director

1507#073

POTPOURRI

Workforce Commission
Office of Workers' Compensation Administration

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202, and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2015 through August 31, 2016.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
$865.31	$649.00	$173.00	* .51 cents per mile
*Effective July 1, 2015 the mileage reimbursement is $0.51 per mile pursuant to R.S. 23:1203(D).			

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 1999-Aug 31, 2000	512.47	384.00	102.00
Sept 1, 2000-Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001-Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002-Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003-Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004-Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005-Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006-Aug 31, 2007	637.19	478.00	127.00
Sept.1, 2007-Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008-Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009-Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010-Aug. 31, 2011	772.18	579.00	154.00
Sept. 1, 2011-Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012-Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013-Aug. 31, 2014	825.54	619.00	165.00
Sept. 1, 2014-Aug. 31, 2015	839.76	630.00	168.00
***Sept. 1, 2015-Aug. 31, 2016**	**865.31**	**649.00**	**173.00**

Actual wages are to be paid if the wages are less than the minimum.

Approved mileage rate as of July 1, 2015 is $0.51 per mile.

Patrick Robinson
Director

1507#072

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